



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 07, 2011

House Amendment 1075

PAG LIN

1 1 Amend House File 189 as follows:

1 2 #1. By striking everything after the enacting clause
1 3 and inserting:

1 4 <Section 1. Section 257.8, subsection 1, Code 2011,
1 5 is amended to read as follows:

1 6 1. State percent of growth. ~~The state percent of~~
~~1 7 growth for the budget year beginning July 1, 2009, is~~
~~1 8 four percent.~~ The state percent of growth for the
1 9 budget year beginning July 1, 2010, is two percent.
1 10 The state percent of growth for the budget year
1 11 beginning July 1, 2011, is two percent. The state
1 12 percent of growth for the budget year beginning July
1 13 1, 2012, is two percent. The state percent of growth
1 14 for each subsequent budget year shall be established by
1 15 statute which shall be enacted within thirty days of
1 16 the submission in the year preceding the base year of
1 17 the governor's budget under section 8.21. ~~The Except~~
1 18 for the budget year beginning July 1, 2011, and the
1 19 budget year beginning July 1, 2012, the establishment
1 20 of the state percent of growth for a budget year shall
1 21 be the only subject matter of the bill which enacts the
1 22 state percent of growth for a budget year.

1 23 Sec. 2. Section 257.8, subsection 2, Code 2011, is
1 24 amended to read as follows:

1 25 2. Categorical state percent of growth. The
1 26 categorical state percent of growth for the budget
1 27 year beginning July 1, 2010, is two percent. The
1 28 categorical state percent of growth for the budget
1 29 year beginning July 1, 2011, is two percent. The
1 30 categorical state percent of growth for the budget
1 31 year beginning July 1, 2012, is two percent. The
1 32 categorical state percent of growth for each budget
1 33 year shall be established by statute which shall be
1 34 enacted within thirty days of the submission in the
1 35 year preceding the base year of the governor's budget
1 36 under section 8.21. ~~The Except for the budget year~~
1 37 beginning July 1, 2011, and the budget year beginning
1 38 July 1, 2012, the establishment of the categorical
1 39 state percent of growth for a budget year shall be
1 40 the only subject matter of the bill which enacts
1 41 the categorical state percent of growth for a budget
1 42 year. The categorical state percent of growth may
1 43 include state percents of growth for the teacher salary
1 44 supplement, the professional development supplement,
1 45 and the early intervention supplement.

1 46 Sec. 3. EFFECTIVE UPON ENACTMENT AND
1 47 APPLICABILITY. This Act, being deemed of immediate
1 48 importance, takes effect upon enactment and is
1 49 applicable for computing state aid under the state
1 50 school foundation program for the school budget year



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House Amendment 1075 continued

2 1 beginning July 1, 2011, and for the school budget year
2 2 beginning July 1, 2012.>
2 3 #2. Title page, by striking lines 1 through 4 and
2 4 inserting: <An Act establishing the state percent of
2 5 growth and the categorical state percent of growth for
2 6 purposes of the state school foundation program and
2 7 including effective date and applicability provisions.>

JACOBY of Johnson
HF189.313 (1) 84
md/sc



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House Amendment 1076

PAG LIN

1 1 Amend House File 189 as follows:
1 2 #1. Page 1, by striking lines 9 through 28 and
1 3 inserting:
1 4 <2. The department of management shall determine
1 5 all of the following for each school district within
1 6 the state:
1 7 a. The total amount of revenue generated for the
1 8 base year by the school district's foundation property
1 9 tax levy and the school district's additional property
1 10 tax levy, taking into account amounts allocated to the
1 11 school district pursuant to section 257.15.
1 12 b. The total amount of revenue to be generated for
1 13 the budget year by the school district's foundation
1 14 property tax levy and the school district's additional
1 15 property tax levy, taking into account amounts to be
1 16 allocated to the school district pursuant to section
1 17 257.15.
1 18 c. The remainder of the amount determined under
1 19 paragraph "b" after subtracting the amount determined
1 20 in paragraph "a".
1 21 3. Each school district that has a remainder
1 22 determined under subsection 2, paragraph "c" that
1 23 is greater than zero shall receive a property tax
1 24 relief supplement in an amount equal to the remainder
1 25 determined under paragraph "c". The department of
1 26 management shall notify each school district of the
1 27 amount of the property tax relief supplement.
1 28 4. School districts that receive a property tax
1 29 relief supplement under this section, shall not levy
1 30 property taxes for the amount of the property tax
1 31 relief supplement received.
1 32 5. Property tax relief supplement payments received
1 33 by a school district under this section may be used for
1 34 any purpose for which such amounts may be used if such
1 35 moneys were generated through property taxes.>

JACOBY of Johnson
HF189.312 (1) 84
md/sc



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House File 210 - Introduced

HOUSE FILE
BY GRASSLEY

A BILL FOR

1 An Act relating to the identification of historic properties by
2 certain rural electric cooperatives.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2051YH (2) 84
jr/nh



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House File 210 - Introduced continued

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1 1 Section 1. NEW SECTION. 303.19A Effort required of rural
1 2 electric cooperatives receiving federal funding to identify
1 3 historic properties.

1 4 1. When constructing electric distribution and transmission
1 5 facilities, a rural electric cooperative receiving federal
1 6 funding for the construction shall only be required to conduct
1 7 an archeological site survey of its proposed route when, based
1 8 upon a review of existing information on historic properties
1 9 within the area of potential effects of the construction, it is
1 10 determined that a historic property, as defined by the federal
1 11 National Historic Preservation Act of 1966, as amended, is
1 12 likely to exist within the proposed route.

1 13 2. An archeological site survey required to be conducted by
1 14 a rural electric cooperative shall be designed to be no more
1 15 arduous than the reasonable and good faith effort required
1 16 under the federal National Historic Preservation Act of 1966,
1 17 as amended, as interpreted by the advisory council on historic
1 18 preservation, shall reflect the public interest, and shall take
1 19 into account the likelihood and magnitude of potential impacts
1 20 to historic properties and project costs.

1 21 EXPLANATION

1 22 The department of cultural affairs is responsible for
1 23 administering the Iowa cultural resources survey and
1 24 registration program which is to be operated in accordance with
1 25 federal law. Site surveys of proposed routes of construction
1 26 that have the potential to impact historic properties may be
1 27 requested under this program if federal funds are used to
1 28 finance the construction.

1 29 This bill establishes specific standards for surveys
1 30 by rural electric cooperatives. The bill requires a rural
1 31 electric cooperative to perform a site survey only when a
1 32 historic property is likely to exist on the property. The
1 33 survey itself must be a reasonable and good faith effort,
1 34 balancing the impacts on the historic property and the project
1 35 costs.

LSB 2051YH (2) 84

jr/nh



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House File 211 - Introduced

HOUSE FILE
BY SANDS

A BILL FOR

1 An Act related to moneys administered by the board of trustees
2 of a drainage or levee district.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TL5B 1870YH (5) 84
da/sc



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House File 211 - Introduced continued

PAG LIN

1 1 Section 1. Section 468.528, Code 2011, is amended to read
1 2 as follows:
1 3 468.528 Disbursement of funds.
1 4 Drainage and levee taxes when so levied and collected shall
1 5 be kept by the treasurer of the county in a separate fund to
1 6 the credit of the district for which it is collected, ~~shall be~~
~~1 7 expended.~~ The county treasurer shall disburse the moneys in
1 8 the fund only upon ~~the~~ any of the following:
1 9 1. The orders of the board of trustees, signed by the
1 10 president of the board, upon which warrants shall be drawn by
1 11 the auditor upon the treasurer.
1 12 2. The orders of the board of trustees directing the
1 13 treasurer to place all or any part of the moneys into a
1 14 checking account established by the board in a bank or credit
1 15 union as defined in section 12C.1.
1 16 a. The treasurer shall disburse the moneys only upon
1 17 resolution duly adopted by the board. The board shall not
1 18 expend moneys in the account for a purpose if the board could
1 19 not order the county treasurer to expend moneys from the
1 20 county's separate fund for that same purpose.
1 21 b. The board shall file with the county auditor an annual
1 22 financial statement that is accompanied by an unqualified
1 23 opinion based upon an audit of the account performed by
1 24 a certified public accountant licensed in this state.
1 25 Notwithstanding paragraph "a", the board shall pay the costs
1 26 associated with performing the audit out of the district's
1 27 moneys.
1 28 Sec. 2. Section 468.531, Code 2011, is amended to read as
1 29 follows:
1 30 468.531 Compensation ==== statements required.
1 31 The compensation of the trustees and the clerk of the board
1 32 is hereby fixed at ~~forty~~ an amount not to exceed two hundred
1 33 dollars per day each and necessary expenses, to be paid out
1 34 of the funds of the drainage or levee district for each day
1 35 necessarily expended in the transaction of the business of the



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2 1 district, but no one shall draw compensation for services as
2 2 trustee and as clerk at the same time. The board of trustees of
2 3 a district may by resolution establish for themselves and for
2 4 the clerk of the district a lower rate of pay than is fixed by
2 5 this section. They shall file with the auditor or auditors,
2 6 if more than one county, itemized, verified statements of
2 7 their time devoted to the business of the district and of the
2 8 expenses incurred.

2 9 EXPLANATION

2 10 GENERAL. This bill provides for the management of a drainage
2 11 or levee district by a three-member board of trustees elected
2 12 by landowners who are assessed taxes to pay for district
2 13 improvements (Code section 468.500).

2 14 CONTROL OF ASSESSED TAXES. Moneys levied and collected in
2 15 taxes are deposited in a special county drainage or levee fund
2 16 controlled by the county treasurer who is authorized to invest
2 17 such moneys and make disbursements to pay for district expenses
2 18 (e.g., repairs and improvements) as authorized by the board
2 19 (Code sections 468.54 and 468.528). The bill allows the board
2 20 to direct the county treasurer to deposit all or any part of
2 21 such moneys into a checking account established in a financial
2 22 institution for the board's use to manage the district. The
2 23 board must at its own expense employ a certified public account
2 24 to perform an annual audit of the account.

2 25 INCREASE IN COMPENSATION. The bill increases the amount
2 26 of compensation paid to a trustee or clerk of the board of
2 27 trustees from \$40 to an amount not to exceed \$200 per day (Code
2 28 section 468.531).

LSB 1870YH (5) 84

da/sc



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House Study Bill 73

HOUSE FILE
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL
BY CHAIRPERSON COWNIE)

A BILL FOR

- 1 An Act relating to state procurement processes.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2246YC (1) 84
je/rj



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House Study Bill 73 continued

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1 1 Section 1. NEW SECTION. 8A.311B Centralized purchasing ====

1 2 limitation on applicability.

1 3 Sections 8A.311 and 8A.311A shall not apply to the

1 4 procurement of any labor, materials, equipment, supplies,

1 5 services, goods, and any other items that would otherwise be

1 6 subject to chapter 26 or 573.

1 7 Sec. 2. Section 26.3, subsection 1, Code 2011, is amended

1 8 to read as follows:

1 9 1. If the estimated total cost of a public improvement

1 10 exceeds the competitive bid threshold of one hundred thousand

1 11 dollars, or the adjusted competitive bid threshold established

1 12 in section 314.1B, the governmental entity shall advertise for

1 13 sealed bids for the proposed public improvement by publishing a

1 14 notice to bidders. The notice to bidders shall be published

1 15 at least once, not less than ~~four~~ twenty and not more than

1 16 ~~forty=~~five days before the date for filing bids, in a newspaper

1 17 published at least once weekly and having general circulation

1 18 in the geographic area served by the governmental entity.

1 19 Additionally, the governmental entity may publish a notice in

1 20 a relevant contractor organization publication and a relevant

1 21 contractor plan room service with statewide circulation,

1 22 provided that a notice is posted on a website sponsored by

1 23 either a governmental entity or a statewide association that

1 24 represents the governmental entity.

1 25 Sec. 3. Section 73A.18, Code 2011, is amended to read as

1 26 follows:

1 27 73A.18 When bids required ==== advertisement ==== deposit.

1 28 When the estimated total cost of construction, erection,

1 29 demolition, alteration or repair of a public improvement

1 30 exceeds the competitive bid threshold in section 26.3, or as

1 31 established in section 314.1B, the municipality shall advertise

1 32 for bids on the proposed improvement by two publications in

1 33 a newspaper published in the county in which the work is to

1 34 be done. The first advertisement for bids shall be not less

1 35 than ~~fifteen~~ twenty and not more than forty=five days prior to



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House Study Bill 73 continued

2 1 the date set for receiving bids. The municipality shall let
2 2 the work to the lowest responsible bidder submitting a sealed
2 3 proposal. However, if in the judgment of the municipality
2 4 bids received are not acceptable, all bids may be rejected and
2 5 new bids requested. A bid shall be accompanied, in a separate
2 6 envelope, by a deposit of money or a certified check or credit
2 7 union certified share draft in an amount to be named in the
2 8 advertisement for bids as security that the bidder will enter
2 9 into a contract for the doing of the work. The municipality
2 10 shall fix the bid security in an amount equal to at least five
2 11 percent, but not more than ten percent of the estimated total
2 12 cost of the work. The checks, share drafts or deposits of
2 13 money of the unsuccessful bidders shall be returned as soon as
2 14 the successful bidder is determined, and the check, share draft
2 15 or deposit of money of the successful bidder shall be returned
2 16 upon execution of the contract documents.

2 17 Sec. 4. ALTERNATIVE PROJECT DELIVERY PILOT PROGRAM.

2 18 1. The department of administrative services shall oversee
2 19 an alternative project delivery pilot program. The object of
2 20 the pilot project shall be to determine whether alternative
2 21 project delivery can be an effective and efficient option
2 22 for the state to use when renovating or constructing new
2 23 facilities. The goal of the pilot project is to determine the
2 24 level of effectiveness and efficiencies offered by alternative
2 25 project delivery.

2 26 2. Starting on July 1, 2011, the department of
2 27 administrative services shall select five projects in each of
2 28 the next two years to utilize alternative project delivery.
2 29 The department shall partner with a pilot project advisory
2 30 committee to create a comprehensive procurement model for
2 31 alternative project delivery. The pilot project advisory
2 32 committee shall be composed of seven members who shall be
2 33 appointed by the titular heads of the following entities:

- 2 34 a. Department of administrative services.
2 35 b. American institute of architects, Iowa chapter.



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3 1 c. American council of engineering companies of Iowa.
3 2 d. Iowa chapter of the design=build institute of America.
3 3 e. Master builders of Iowa.
3 4 f. Mechanical contractors association of Iowa.
3 5 g. Iowa state building and construction trades council.
3 6 3. The appointee of the department of administrative
3 7 services shall be the chairperson of the pilot project advisory
3 8 committee.
3 9 4. Each member of the pilot project advisory committee shall
3 10 serve a two and one=half year term starting July 1, 2011, and
3 11 ending December 31, 2013.
3 12 5. Pilot project parameters shall include the following:
3 13 a. Up to a maximum of five projects shall be selected in
3 14 each of the next two fiscal years.
3 15 b. The projects shall include renovation and new
3 16 construction. The projects shall vary in size, complexity,
3 17 scheduling, and cost.
3 18 c. Selection of these projects shall be completed by October
3 19 1, 2011, for fiscal year 2011=2012, and by October 1, 2012, for
3 20 fiscal year 2012=2013.
3 21 d. The director of the department of administrative
3 22 services shall make the final selection of projects and type of
3 23 alternative project delivery options.
3 24 6. The pilot project advisory committee shall file a report
3 25 to the general assembly at the start of each legislative
3 26 session outlining pilot project performance. A final report
3 27 shall be issued to the general assembly on January 1, 2014.
3 28 7. Notwithstanding any other provision of the law to the
3 29 contrary, a pilot project participant may utilize alternative
3 30 project delivery procurement processes, as established by the
3 31 pilot project advisory committee and approved by the director
3 32 of the department of administrative services, on projects under
3 33 the control of the department of administrative services.
3 34 Notwithstanding any other provision of the law to the contrary,
3 35 a pilot project participant selected for a pilot project under



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4 1 this section is exempt from competitive bidding requirements
4 2 under the Code on projects under the control of the department
4 3 of administrative services. No other public entity other
4 4 than a pilot project participant selected for a pilot
4 5 project under this section shall be exempt from competitive
4 6 bidding requirements under the Code. This authorization for
4 7 construction management at risk and design=build procurement
4 8 shall be for the sole and exclusive use of planning, acquiring,
4 9 building, equipping, altering, repairing, improving, or
4 10 demolishing any structure or appurtenance thereto, including
4 11 facilities, utilities, or other improvements to any real
4 12 property, but shall not include highways, roads, bridges, dams,
4 13 turnpikes, or related structures, or stand-alone parking lots.
4 14 8. It is the intent of this section that an appropriation of
4 15 thirty thousand dollars from the rebuild Iowa infrastructure
4 16 fund to the department of administrative services shall be used
4 17 to cover expenses associated with administration and reporting
4 18 requirements of the pilot project.

4 19 EXPLANATION

4 20 This bill relates to state procurement processes.

4 21 The bill provides that Code sections 8A.311 and 8A.311A,
4 22 relating to competitive bidding and centralized purchasing
4 23 procedures under the department of management, do not apply to
4 24 the procurement of any labor, materials, equipment, supplies,
4 25 services, goods, and any other items that would otherwise be
4 26 subject to Code chapter 26 or 573.

4 27 The bill provides that under Code section 26.3, published
4 28 notice to bidders for public improvement projects by the state
4 29 or political subdivisions exceeding competitive bid thresholds
4 30 must occur not less than 20 days before the date for filing
4 31 bids. Current law requires that published notice must occur
4 32 not less than four days before the date for filing bids.

4 33 The bill provides that under Code section 73A.18, published
4 34 notice to bidders for public improvement projects by
4 35 municipalities exceeding competitive bid thresholds must occur



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House Study Bill 73 continued

5 1 not less than 20 and not more than 45 days before the date for
5 2 filing bids. Current law requires that published notice must
5 3 occur not less than 15 days before the date for filing bids.
5 4 The bill creates an alternative project delivery pilot
5 5 program to be overseen by the department of administrative
5 6 services. The bill provides that the object of the pilot
5 7 project is to determine whether alternative project delivery
5 8 can be an effective and efficient option for the state to use
5 9 when renovating or constructing new facilities. The bill
5 10 provides that the goal of the pilot project is to determine the
5 11 level of effectiveness and efficiencies offered by alternative
5 12 project delivery. The bill provides that starting on July 1,
5 13 2011, the department of administrative services will select
5 14 five projects in each of the next two years to use alternative
5 15 project delivery. The bill provides for a pilot project
5 16 advisory committee with seven members who shall be appointed
5 17 by the heads of certain public and private entities. The bill
5 18 provides that the appointee of the department of administrative
5 19 services will be the chairperson of the committee. The
5 20 bill directs the department of administrative services to
5 21 partner with the pilot project advisory committee to create
5 22 a comprehensive procurement model for alternative project
5 23 delivery. The bill provides that each member of the committee
5 24 will serve a two and one-half year term starting July 1, 2011,
5 25 and ending December 31, 2013. The bill sets out certain
5 26 parameters for the pilot project, including that the director
5 27 of the department of administrative services will make the
5 28 final determination for selection of projects and type of
5 29 alternative project delivery options. The bill directs the
5 30 committee to file a report to the legislature at the start of
5 31 each legislative session outlining pilot project performance
5 32 with a final report to be issued on January 1, 2014. The bill
5 33 authorizes a pilot project participant to utilize alternative
5 34 project delivery procurement processes, as established by the
5 35 pilot project advisory committee and the director, on projects



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6 1 under the control of the department of administrative services.
6 2 The bill exempts pilot project participants from competitive
6 3 bidding requirements under the Iowa Code. The bill specifies
6 4 that no other public entity other than a pilot project
6 5 participant is granted such an exemption. The bill defines
6 6 the scope of authorized uses for construction management at
6 7 risk and design=build procurement. The bill includes intent
6 8 language that provides that an appropriation of \$30,000
6 9 from the rebuild Iowa infrastructure fund to the department
6 10 of administrative services will be used to cover expenses
6 11 associated with administration and reporting requirements of
6 12 the pilot project.

LSB 2246YC (1) 84

je/rj



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Senate Concurrent Resolution 5 - Introduced

PAG LIN

SENATE CONCURRENT RESOLUTION NO.

BY BOLKCOM

1 1 A Concurrent Resolution urging the United States
1 2 Congress to modernize the Toxic Substances Control
1 3 Act of 1976.
1 4 WHEREAS, children and developing fetuses are
1 5 uniquely vulnerable to the health threats of toxic
1 6 chemicals and early-life chemical exposures have been
1 7 linked to chronic disease later in life; and
1 8 WHEREAS, a growing body of peer-reviewed scientific
1 9 evidence links exposure to toxic chemicals to many
1 10 diseases and health conditions that are rising in
1 11 incidence including childhood cancers, prostate cancer,
1 12 breast cancer, learning and developmental disabilities,
1 13 infertility, and obesity; and
1 14 WHEREAS, the President's Cancer Panel report
1 15 released in May 2010 stated "the true burden of
1 16 environmentally induced cancers has been grossly
1 17 underestimated" and advised the President "to use
1 18 the power of your office to remove the carcinogens
1 19 and other toxins from our food, water, and air that
1 20 needlessly increase health care costs, cripple
1 21 our nation's productivity, and devastate American
1 22 lives"; and
1 23 WHEREAS, workers in a range of industries are
1 24 exposed to toxic chemicals which pose threats to
1 25 their health, increasing worker absenteeism, workers'
1 26 compensation claims, and health care costs that burden
1 27 the economy; and
1 28 WHEREAS, a recent national poll found that 78



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2 1 percent of likely American voters were seriously
2 2 concerned about the threat to children's health from
2 3 exposure to toxic chemicals in day-to-day life; and
2 4 WHEREAS, states bear an undue burden from
2 5 toxic chemicals, including health care costs and
2 6 environmental damages, disadvantaging businesses that
2 7 lack information on chemicals in their supply chain and
2 8 increasing demands for state regulation; and
2 9 WHEREAS, the primary governing federal statute,
2 10 the Toxic Substances Control Act of 1976 (TSCA), was
2 11 intended to authorize the United States Environmental
2 12 Protection Agency (EPA) to protect public health and
2 13 the environment from toxic chemicals; and
2 14 WHEREAS, when TSCA was passed about 62,000
2 15 chemicals in commerce were grandfathered in without any
2 16 required testing for health and safety hazards or any
2 17 restrictions on usage; and
2 18 WHEREAS, in the 35 years since TSCA passed, the EPA
2 19 has required chemical companies to test only about 200
2 20 of those chemicals for health hazards and has issued
2 21 partial restrictions on only five chemicals; and
2 22 WHEREAS, TSCA has been widely recognized as
2 23 ineffective and obsolete due to legal and procedural
2 24 hurdles that prevent the EPA from taking quick and
2 25 effective regulatory action to protect the public
2 26 against well-known chemical threats; and
2 27 WHEREAS, in January 2009, the United States General
2 28 Accounting Office added the EPA's regulatory program
2 29 for assessing and controlling toxic chemicals to its
2 30 list of high-risk government programs that are not



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3 1 working as intended, finding that the EPA has been
3 2 unable to complete assessments even of chemicals of
3 3 highest concern; that the EPA requires additional
3 4 authority to obtain health and human safety information
3 5 from the chemical industry and to shift more of the
3 6 burden to chemical companies to demonstrate the safety
3 7 of their products; and that the TSCA does not provide
3 8 sufficient chemical safety data for public use by
3 9 consumers, businesses, and workers, and fails to create
3 10 incentives to develop safer alternatives; and
3 11 WHEREAS, the National Conference of State
3 12 Legislatures unanimously adopted a resolution in July
3 13 2009 that articulated principles for TSCA reform and
3 14 called on Congress to act to update the law; and
3 15 WHEREAS, ten states have come together to launch
3 16 the Interstate Chemicals Clearinghouse to coordinate
3 17 state chemical information management programs, and a
3 18 coalition of 13 states issued guiding principles for
3 19 TSCA reform; and
3 20 WHEREAS, 71 state laws on chemical safety have been
3 21 enacted and signed into law in 18 states with broad
3 22 bipartisan support over the last eight years; and
3 23 WHEREAS, state policy leadership on chemical
3 24 management, although outstanding, cannot substitute for
3 25 Congressional leadership to reform TSCA, a reform which
3 26 all parties agree is urgently needed; and
3 27 WHEREAS, TSCA is the only major federal
3 28 environmental statute that has never been updated or
3 29 reauthorized; and
3 30 WHEREAS, legislation to substantially reform TSCA



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Senate Concurrent Resolution 5 - Introduced continued

4 1 was introduced during the 109th Congress in 2005, the
4 2 110th Congress in 2008, and again in the 111th Congress
4 3 in 2010; NOW THEREFORE,
4 4 BE IT RESOLVED BY THE SENATE, THE HOUSE OF
4 5 REPRESENTATIVES CONCURRING, That the Iowa General
4 6 Assembly encourages the 112th Congress to enact
4 7 federal legislation to modernize the TSCA to strengthen
4 8 chemicals management through policy reforms; and
4 9 BE IT FURTHER RESOLVED, That the policy reforms
4 10 should require chemical manufacturers to prove
4 11 that all existing and new chemicals are not harmful
4 12 to human health, and provide essential health and
4 13 safety information on chemicals to inform the market,
4 14 consumers, and general public; and
4 15 BE IT FURTHER RESOLVED, That the policy reforms
4 16 should require immediate action to reduce or
4 17 eliminate the worst chemicals, including persistent,
4 18 bioaccumulative, and toxic chemicals and other
4 19 priority toxics to which there is already widespread
4 20 exposure; and
4 21 BE IT FURTHER RESOLVED, That the policy reforms
4 22 should preserve the authority of state and tribal
4 23 governments to operate chemicals management programs
4 24 that are more protective than the federal programs; and
4 25 BE IT FURTHER RESOLVED, That the policy reforms
4 26 should establish health safety standards for chemicals
4 27 that rely on the best available science to protect
4 28 the most vulnerable among us, such as children and
4 29 developing fetuses; and
4 30 BE IT FURTHER RESOLVED, That the policy reforms



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5 1 should reward innovation by fast-tracking approval of
5 2 new, demonstratively safer chemicals, and invest in
5 3 green chemistry research and workforce development to
5 4 boost American business and spur jobs making safer
5 5 alternatives; and

5 6 BE IT FURTHER RESOLVED, That the policy reforms
5 7 should promote environmental justice by developing
5 8 action plans to reduce disproportionate exposure to
5 9 toxic chemicals in hot spot communities; and

5 10 BE IT FURTHER RESOLVED, That the Chief Clerk of the
5 11 House and the Secretary of the Senate shall forward
5 12 copies of this resolution to all members of Iowa's
5 13 Congressional delegation.

LSB 1421XS (3) 84

tm/rj



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Senate File 150 - Introduced

SENATE FILE
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 1)

A BILL FOR

1 An Act modifying the definition of high alcoholic content beer
2 to exclude added caffeine and other added stimulants, and
3 including effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1181SV (2) 84

rn/nh



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Senate File 150 - Introduced continued

PAG LIN

1 1 Section 1. Section 123.3, subsection 14A, Code 2011, is
1 2 amended to read as follows:
1 3 14A. "High alcoholic content beer" means beer which contains
1 4 more than five percent of alcohol by weight, but not more
1 5 than twelve percent of alcohol by weight, that is made by the
1 6 fermentation of an infusion in potable water of barley, malt,
1 7 and hops, with or without unmalted grains or decorticated and
1 8 degerminated grains. "High alcoholic content beer" does not
1 9 include beer which contains added caffeine or other added
1 10 stimulants including but not limited to guarana, ginseng, and
1 11 taurine.

1 12 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
1 13 immediate importance, takes effect upon enactment.

1 14 EXPLANATION

1 15 This bill excludes from the definition of "high alcoholic
1 16 content beer" beer containing added caffeine or other added
1 17 stimulants including but not limited to guarana, ginseng,
1 18 and taurine. This is consistent with a determination by the
1 19 federal food and drug administration that alcoholic beverages
1 20 to which caffeine and other stimulants are added are unsafe.

1 21 The bill takes effect upon enactment.

LSB 1181SV (2) 84

rn/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
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Senate File 151 - Introduced

SENATE FILE
BY KIBBIE

A BILL FOR

1 An Act increasing the property tax levy for community college
2 operations and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1102XS (6) 84
md/sc



Iowa General Assembly
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Senate File 151 - Introduced continued

PAG LIN

1 1 Section 1. Section 260C.17, Code 2011, is amended to read
1 2 as follows:
1 3 260C.17 Preparation and approval of budget == tax.
1 4 1. The board of directors of each merged area shall prepare
1 5 an annual budget designating the proposed expenditures for
1 6 operation of the community college. The board shall further
1 7 designate the amounts which are to be raised by local taxation
1 8 and the amounts which are to be raised by other sources of
1 9 revenue for the operation. The budget of each merged area
1 10 shall be submitted to the state board no later than May 1
1 11 preceding the next fiscal year for approval. The state board
1 12 shall review the proposed budget and shall, prior to June 1,
1 13 either grant its approval or return the budget without approval
1 14 with the comments of the state board attached to it. Any
1 15 unapproved budget shall be resubmitted to the state board for
1 16 final approval. Upon approval of the budget by the state
1 17 board, the board of directors shall certify the amount to
1 18 the respective county auditors and the boards of supervisors
1 19 annually shall levy a tax of ~~twenty and one-fourth~~ eighty cents
1 20 per thousand dollars of assessed value on taxable property in a
1 21 merged area for the operation of a community college. Taxes
1 22 collected pursuant to the levy shall be paid by the respective
1 23 county treasurers to the treasurer of the merged area as
1 24 provided in section 331.552, subsection 29.
1 25 2. It is the policy of this state that the property tax
1 26 for the operation of community colleges shall not in any event
1 27 exceed ~~twenty and one-fourth~~ eighty cents per thousand dollars
1 28 of assessed value, and that the present and future costs of
1 29 such operation in excess of the funds raised by such levy shall
1 30 be the responsibility of the state and shall not be paid from
1 31 property tax.
1 32 Sec. 2. Section 260C.18C, subsection 2, paragraph o, Code
1 33 2011, is amended to read as follows:
1 34 o. "General fund property tax revenue" means the amount of
1 35 moneys a community college raised or could have raised from a



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Senate File 151 - Introduced continued

2 1 property tax of ~~twenty and one-fourth~~ eighty cents per thousand
2 2 dollars of assessed valuation on all taxable property in its
2 3 merged area collected for the base year.

2 4 Sec. 3. APPLICABILITY. This Act applies to budget years
2 5 beginning on or after July 1, 2011.

2 6 EXPLANATION

2 7 This bill increases the property tax levy rate for
2 8 operations of community colleges from 20 1/4 cents per \$1,000
2 9 of assessed value to 80 cents per \$1,000 of assessed value on
2 10 taxable property in the merged area.

2 11 The bill applies to budget years beginning on or after July
2 12 1, 2011.

LSB 1102XS (6) 84

md/sc



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Senate File 152 - Introduced

SENATE FILE
BY RAGAN

A BILL FOR

1 An Act relating to entitling mental health counselors to
2 payment for behavioral health services provided under the
3 Medicaid program.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2264XS (2) 84
pf/nh



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Senate File 152 - Introduced continued

PAG LIN

1 1 Section 1. Section 249A.15A, Code 2011, is amended to read
1 2 as follows:

1 3 249A.15A Licensed marital and family therapists ~~and~~, licensed
1 4 master social workers, and licensed mental health counselors.

1 5 1. The department shall adopt rules pursuant to chapter
1 6 17A entitling marital and family therapists who are licensed
1 7 pursuant to chapter 154D to payment for behavioral health
1 8 services provided to recipients of medical assistance, subject
1 9 to limitations and exclusions the department finds necessary on
1 10 the basis of federal laws and regulations.

1 11 2. The department shall adopt rules pursuant to chapter
1 12 17A entitling master social workers who hold a master's
1 13 degree approved by the board of social work, are licensed as
1 14 a master social worker pursuant to section 154C.3, subsection
1 15 1, paragraph "b", and provide treatment services under the
1 16 supervision of an independent social worker licensed pursuant
1 17 to section 154C.3, subsection 1, paragraph "c", to payment
1 18 for behavioral health services provided to recipients of
1 19 medical assistance, subject to limitations and exclusions the
1 20 department finds necessary on the basis of federal laws and
1 21 regulations.

1 22 3. The department shall adopt rules pursuant to chapter 17A
1 23 entitling mental health counselors who are licensed pursuant to
1 24 chapter 154D to payment for behavioral health services provided
1 25 to recipients of medical assistance, subject to limitations
1 26 and exclusions the department finds necessary on the basis of
1 27 federal laws and regulations.

1 28 Sec. 2. MEDICAL ASSISTANCE STATE PLAN ==== MENTAL HEALTH
1 29 COUNSELORS. The department of human services shall amend the
1 30 medical assistance state plan to allow mental health counselors
1 31 licensed in the state to be participating behavioral health
1 32 providers under the medical assistance program.

1 33 EXPLANATION

1 34 This bill directs the department of human services (DHS)
1 35 to adopt rules entitling licensed mental health counselors to



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Senate File 152 - Introduced continued

2 1 payment for behavioral health services provided to recipients
2 2 of medical assistance, subject to limitations and exclusions
2 3 the department finds necessary on the basis of federal laws and
2 4 regulations. The bill also directs DHS to amend the Medicaid
2 5 state plan to allow licensed mental health counselors to be
2 6 participating behavioral health providers under the Medicaid
2 7 program.

LSB 2264XS (2) 84

pf/nh



Iowa General Assembly
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Senate File 153 - Introduced

SENATE FILE
BY RAGAN and BOWMAN

A BILL FOR

1 An Act concerning the protection of student athletes from
2 concussions and other head injuries.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSE 1983SS (4) 84
je/nh



**Iowa General Assembly
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Senate File 153 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 280.13C Head injury policies.
1 2 1. a. The board of directors of each public school district
1 3 and the authorities in charge of each nonpublic school shall
1 4 develop guidelines and other pertinent information and forms to
1 5 inform and educate coaches, student athletes, and the parents
1 6 and guardians of student athletes of the nature and risk of
1 7 concussions and other head injuries, including the danger
1 8 of continuing to participate in athletic activities after
1 9 suffering a concussion or head injury.
1 10 b. Annually, each school district and nonpublic school
1 11 shall provide to the parent or guardian of each student athlete
1 12 a concussion and head injury information sheet. The student
1 13 athlete and the student athlete's parent or guardian shall sign
1 14 and return the concussion and head injury information sheet to
1 15 the student athlete's school prior to the student athlete's
1 16 participation in any extracurricular interscholastic athletic
1 17 activity.
1 18 2. If a coach or other school official suspects a student
1 19 athlete may have sustained a concussion or other head injury
1 20 in an athletic practice or game, the student athlete shall be
1 21 immediately removed from participation.
1 22 3. A student athlete who has been removed from participation
1 23 shall not recommence such participation until the student
1 24 athlete has been evaluated by a licensed health care provider
1 25 trained in the evaluation and management of concussions and
1 26 other head injuries and the student athlete has received
1 27 written clearance to return to participation from the health
1 28 care provider. The health care provider may be a volunteer.
1 29 A volunteer who authorizes a student athlete to return to
1 30 participation is not liable for civil damages resulting from
1 31 any act or omission in the rendering of such care, other than
1 32 acts or omissions constituting gross negligence or willful or
1 33 wanton misconduct.
1 34 4. The board of directors of each public school district
1 35 and the authorities in charge of each nonpublic school shall



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Senate File 153 - Introduced continued

2 1 require any private entity which carries out a student athletic
2 2 activity in coordination with the school district or nonpublic
2 3 school to comply with the requirements of this section.
2 4 5. The board of directors of each public school district and
2 5 the authorities in charge of each nonpublic school shall adopt
2 6 rules and procedures necessary to carry out the requirements of
2 7 this section.

2 8 EXPLANATION

2 9 This bill directs the board of directors of each public
2 10 school district and the authorities in charge of each nonpublic
2 11 school to develop guidelines and other pertinent information
2 12 and forms to inform and educate coaches, student athletes, and
2 13 parents and guardians of student athletes of the nature and
2 14 risk of concussions and other head injuries, including the
2 15 danger of continuing to participate in athletic activities
2 16 after a concussion or head injury. The bill requires school
2 17 districts and nonpublic schools to annually provide the
2 18 parent or guardian of a student athlete with a concussion
2 19 and head injury information sheet which must be signed and
2 20 returned before the student athlete may participate in an
2 21 extracurricular interscholastic athletic activity.

2 22 The bill provides that if a coach or other school official
2 23 suspects a student athlete may have sustained a concussion
2 24 or other head injury in an athletic practice or game, the
2 25 student athlete must be removed from participation. The bill
2 26 provides that a student athlete removed from participation
2 27 shall not recommence participation until the student athlete
2 28 has been evaluated by a licensed health care provider trained
2 29 in the evaluation and management of concussions and other
2 30 head injuries and received written clearance to return to
2 31 play. The bill specifies that the health care provider may
2 32 be a volunteer. The bill provides that such a volunteer
2 33 is not liable for civil damages resulting from any act or
2 34 omission in the rendering of care, other than acts or omissions
2 35 constituting gross negligence or willful or wanton misconduct.



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3 1 The bill directs the board of directors of each school
3 2 district and the authorities in charge of each nonpublic school
3 3 to require any private entity which carries out a student
3 4 athletic activity in coordination with the school district or
3 5 nonpublic school to comply with the requirements of the bill.

3 6 The bill directs the board of directors of each school
3 7 district and the authorities in charge of each nonpublic school
3 8 to adopt rules and procedures necessary to carry out the
3 9 requirements of the bill.

LSB 1983SS (4) 84

je/nh



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Senate File 154 - Introduced

SENATE FILE

BY HOGG, McCOY, BOLKCOM,
HATCH, RAGAN, BOWMAN,
QUIRMBACH, SCHOENJAHN,
DEARDEN, DVORSKY,
JOCHUM, BLACK, and
COURTNEY

A BILL FOR

1 An Act relating to dissolvable products and providing
2 penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2060XS (6) 84
pf/nh



Iowa General Assembly
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Senate File 154 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 453A.57 Dissolvable products ====

1 2 restrictions ==== penalties.

1 3 1. Dissolvable products shall not be offered for sale or

1 4 sold at retail in this state unless the retail location meets

1 5 all of the following conditions:

1 6 a. The retail location does not allow individuals under

1 7 eighteen years of age to enter the location.

1 8 b. Ninety percent or more of the gross sales of the retail

1 9 location is based on the sale of tobacco or nicotine products.

1 10 c. The retail location met the requirements of paragraphs

1 11 "a" and "b" prior to January 1, 2011.

1 12 2. A dissolvable product shall not be offered for sale,

1 13 sold, given, or otherwise supplied to an individual under

1 14 eighteen years of age in this state.

1 15 3. A person who offers for sale or sells dissolvable

1 16 products at retail, or who offers for sale, sells, gives, or

1 17 otherwise supplies a dissolvable product to an individual under

1 18 eighteen years of age in this state, in violation of this

1 19 section, is subject to the following civil penalties:

1 20 a. A two hundred dollar penalty for the first violation.

1 21 b. A five hundred dollar penalty for a second violation

1 22 within three years of the first violation.

1 23 c. A one thousand dollar penalty for a third or subsequent

1 24 violation within three years of the first violation.

1 25 4. For the purposes of this section, "dissolvable product"

1 26 means any product containing tobacco or nicotine that is

1 27 intended or expected to be used for oral consumption that

1 28 does not consist of loose tobacco and is offered in discrete

1 29 single=dose or single=use lozenges, pills, capsules, strips,

1 30 sticks, orbs, or other single=dose or single=use units, or in

1 31 packages of such single=dose or single=use units. "Dissolvable

1 32 product" does not include any tobacco or nicotine product

1 33 that has been approved by the United States food and drug

1 34 administration for sale as, and is being marketed and sold

1 35 solely as, a tobacco cessation product; a tobacco dependence



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2 1 product; a harm reduction product; or for any other medical or
2 2 pharmacological purpose.
2 3 Sec. 2. CODE EDITOR DIRECTIVE. The Iowa Code editor
2 4 shall codify section 453A.57, as enacted in this Act, as a
2 5 separate division of chapter 453A, and shall title the division
2 6 "Dissolvable Products".

2 7 EXPLANATION

2 8 This bill provides restrictions on the sale of dissolvable
2 9 products in the state in new Code section 453A.57. The bill
2 10 defines "dissolvable products" as any product containing
2 11 tobacco or nicotine that is intended or expected to be used
2 12 for oral consumption that does not consist of loose tobacco
2 13 and is offered in discrete single=dose or single=use lozenges,
2 14 pills, capsules, strips, sticks, orbs, or other single=dose
2 15 or single=use units, or in packages of such single=dose or
2 16 single=use units. "Dissolvable product" does not include any
2 17 tobacco or nicotine product that has been approved by the
2 18 United States food and drug administration for sale as, and is
2 19 marketed and sold solely as, a tobacco cessation product, a
2 20 tobacco dependence product, a harm reduction product, or for
2 21 any other medical or pharmacological purpose.

2 22 The bill specifies that dissolvable products shall not be
2 23 offered for sale or sold at retail in this state unless the
2 24 retail location meets three conditions: the retail location
2 25 does not allow individuals under 18 years of age to enter the
2 26 location; 99 percent or more of the gross sales of the retail
2 27 location is based on the sale of tobacco or nicotine products;
2 28 and the retail location meets the first two requirements prior
2 29 to January 1, 2011.

2 30 The bill also provides that a dissolvable product shall not
2 31 be offered for sale, sold, given, or otherwise supplied to an
2 32 individual under 18 years of age in the state.

2 33 A person who violates the provisions of the bill is subject
2 34 to the following civil penalties: a \$200 penalty for the
2 35 first violation; a \$500 penalty for a second violation within



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3 1 three years of the first violation; and a \$1,000 penalty for a
3 2 third or subsequent violation within three years of the first
3 3 violation.
3 4 The bill also directs the Code editor to codify the new Code
3 5 section as a separate division in Code chapter 453A entitled
3 6 "Dissolvable Products".

LSB 2060XS (6) 84

pf/nh



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Senate File 155 - Introduced

SENATE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB
1014)

A BILL FOR

1 An Act relating to procedural requirements in in rem forfeiture
2 proceedings.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TL5B 1256SV (1) 84

rh/nh



Iowa General Assembly
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Senate File 155 - Introduced continued

PAG LIN

1 1 Section 1. Section 809A.13, subsection 3, Code 2011, is
1 2 amended to read as follows:
1 3 3. ~~Only an owner of or an interest holder in the property~~
1 4 ~~who has timely filed a proper claim pursuant to section 809A.11~~
1 5 ~~may file an answer in an action in rem.~~ For the purposes of
1 6 this section, an owner of or interest holder in property who
1 7 has filed a ~~claim and an~~ answer shall be referred to as a
1 8 claimant.

1 9 EXPLANATION

1 10 This bill relates to procedural requirements in in rem
1 11 forfeiture proceedings.

1 12 Code section 809A.13 provides that an in rem forfeiture
1 13 action may be brought by a prosecuting attorney by serving a
1 14 notice of pending forfeiture on the owner or interested party
1 15 or by filing a verified complaint of forfeiture in court. In
1 16 a case where the owner or interested party is served notice
1 17 of the pending forfeiture, Code section 809A.11 provides that
1 18 the owner or interested property owner can file, within 30
1 19 days after the effective notice date, a claim in the property.
1 20 No similar notice or claim requirements exist if the in rem
1 21 forfeiture action is commenced through the filing of a verified
1 22 complaint. The bill eliminates the procedural limitation that
1 23 only allows an owner or an interest holder in property that is
1 24 the subject of an in rem forfeiture action who has been served
1 25 notice of the pending forfeiture and who has filed a timely
1 26 claim to file an answer in the action.

1 27 The bill is in response to an Iowa Supreme Court decision
1 28 filed on April 9, 2010 (In re Young, 780 N.W.2d 726), in which
1 29 the court held this statutory provision unconstitutional
1 30 because the plain meaning of the statute precludes an aggrieved
1 31 property owner or interested party from filing an answer to the
1 32 state's in rem forfeiture complaint in violation of state and
1 33 federal due process guarantees.

LSB 1256SV (1) 84

rh/nh



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Senate File 156 - Introduced

SENATE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB
1040)

A BILL FOR

1 An Act relating to instruments used to update the county
2 transfer books and index maintained by the county auditor.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1051SV (2) 84
md/sc



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Senate File 156 - Introduced continued

PAG LIN

1 1 Section 1. Section 558.66, Code 2011, is amended by striking
1 2 the section and inserting in lieu thereof the following:

1 3 558.66 Updating county administrative records.

1 4 1. Upon the receipt of an instrument that satisfies the
1 5 requirements of this section and the payment of the applicable
1 6 fees authorized in section 331.507, subsection 2, the auditor
1 7 shall enter the updated or corrected real estate ownership
1 8 information in the transfer books and index required by section
1 9 558.60.

1 10 2. In the case of an instrument filed with the recorder that
1 11 satisfies the requirements of this section, the recorder shall
1 12 collect the applicable fees authorized under section 331.507,
1 13 subsection 2, and section 331.604 and pay such fees to the
1 14 treasurer as provided in section 331.902, subsection 3.

1 15 3. Each of the following instruments shall be accepted by
1 16 the recorder for the purpose of updating the county transfer
1 17 books and index if a conveyance has not occurred:

1 18 a. A certificate issued by the clerk of the district court
1 19 or clerk of the supreme court indicating that the title to real
1 20 estate has been finally established in any named person by
1 21 judgment or decree or by will.

1 22 b. An affidavit of or on behalf of a surviving joint tenant
1 23 or a person who owns the remainder interest. The affidavit
1 24 shall include substantially the following:

1 25 (1) The name of the affiant.

1 26 (2) The name of the surviving joint tenant or owner of
1 27 the remainder interest, as applicable, whose name the county
1 28 records should reflect ownership of title.

1 29 (3) The name of the deceased joint tenant or life tenant and
1 30 such person's date of death.

1 31 (4) The legal description of the real estate located in the
1 32 county.

1 33 (5) The description and date of filing and recording of the
1 34 conveyance instrument by which the surviving joint tenant or
1 35 owner of the remainder interest acquired title.



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2 1 (6) The document reference number of the instrument
2 2 establishing title, if applicable.
2 3 (7) A request that the auditor enter the information on the
2 4 transfer books and index pursuant to subsection 1.
2 5 c. An affidavit by or for a person, other than an
2 6 individual, following a merger, consolidation, name change, or
2 7 change of fiduciary. The affidavit shall include substantially
2 8 the following, as applicable:
2 9 (1) The former name of the person.
2 10 (2) The new name of the person.
2 11 (3) The legal description of the real estate located in the
2 12 county.
2 13 (4) A description of the merger, consolidation, name
2 14 change, or change of fiduciary.
2 15 (5) A request that the auditor enter the information on the
2 16 transfer books and index pursuant to subsection 1.
2 17 d. Articles of merger, consolidation, or name change as
2 18 required by another provision of law if the legal description
2 19 of the real estate is attached thereto.
2 20 4. An instrument recorded pursuant to this section is not a
2 21 muniment of title.

EXPLANATION

2 23 This bill strikes and rewrites current Code section 558.66
2 24 relating to updating of the county transfer books and index by
2 25 the county auditor upon receipt of certain certificates issued
2 26 by the clerk of the district court or clerk of the supreme
2 27 court indicating that the title to real estate has been finally
2 28 established and other specified affidavits filed relating to
2 29 real estate held in joint tenancy by married individuals.
2 30 The bill provides that upon the receipt by the recorder of
2 31 certain instruments containing specified information relating
2 32 to the ownership of real estate and the payment of all required
2 33 fees, the auditor shall enter the updated or corrected real
2 34 estate ownership information in the transfer books and index.
2 35 The county recorder is directed to deliver such instruments



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3 1 to the county auditor under Code section 558.58. The types
3 2 of instruments authorized in the bill for use by the auditor
3 3 include a certificate issued by the clerk of the district court
3 4 or clerk of the supreme court indicating that the title to real
3 5 estate has been finally established in any named person by
3 6 judgment or decree or by will, an affidavit of or on behalf of
3 7 a surviving joint tenant (not only those joint tenants who are
3 8 a surviving spouse) or a person who owns a remainder interest,
3 9 an affidavit by or for a person, other than an individual,
3 10 following a merger, consolidation, name change, or change of
3 11 fiduciary, and articles of merger, consolidation, or name
3 12 change if the legal description of the real estate is attached.
3 13 The bill provides that an instrument recorded under the bill is
3 14 not a muniment of title.

LSB 1051SV (2) 84

md/sc



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Senate File 157 - Introduced

SENATE FILE
BY DANIELSON

A BILL FOR

1 An Act providing for a process for seeking a waiver of rules
2 promulgated by the director of the Iowa law enforcement
3 academy.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1874XS (4) 84
je/sc



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Senate File 157 - Introduced continued

PAG LIN

1 1 Section 1. Section 80B.11, subsection 1, Code 2011, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. m. A process for issuance of an order
1 4 granting or denying a waiver in whole or in part of a rule
1 5 promulgated by the director pursuant to this subsection,
1 6 in response to a petition by a person seeking a waiver. A
1 7 decision to grant or deny a waiver shall be based on one or more
1 8 of the following considerations:
1 9 (1) The application of the rule would impose an undue
1 10 hardship on the petitioner.
1 11 (2) The waiver from the requirements of the rule in the
1 12 specific case would not prejudice the substantial legal rights
1 13 of any person.
1 14 (3) The provisions of the rule subject to the petition for
1 15 a waiver are not specifically mandated by statute or another
1 16 provision of law.
1 17 (4) Substantially equal protection of public health,
1 18 safety, and welfare will be afforded by a means other than
1 19 that prescribed in the particular rule for which the waiver is
1 20 requested.
1 21 (5) The petitioner is able to demonstrate that the
1 22 petitioner will have satisfied the requirements of the rule by
1 23 the time the petitioner's training at the academy is completed.
1 24 (6) The requirements of the rule are not specifically
1 25 required by a law enforcement agency that either intends to
1 26 hire or has hired the petitioner as a law enforcement officer.
1 27 An order granting or denying a waiver shall clearly
1 28 articulate the facts and reasons upon which the decision to
1 29 grant or deny the waiver was based. An order denying a waiver
1 30 shall also clearly articulate steps the petitioner may take to
1 31 qualify for a waiver or to meet the requirements of the rule in
1 32 the future. Appeal of a decision to deny a waiver may be taken
1 33 in accordance with chapter 17A.
1 34 EXPLANATION
1 35 This bill requires the director of the Iowa law enforcement



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2 1 academy to adopt rules establishing a process for granting
2 2 or denying a waiver of a rule promulgated by the director if
2 3 petitioned by a person seeking a waiver. The bill provides
2 4 that a decision to grant or deny a waiver will be based on one
2 5 or more considerations as specified in the bill. The bill
2 6 provides that such an order will clearly articulate the facts
2 7 and reasons upon which a decision to grant or deny a waiver
2 8 was based. The bill provides that such an order will also
2 9 clearly articulate steps the petitioner may take to qualify for
2 10 a waiver or meet the requirements of the rule in the future.
2 11 The bill provides that appeal of a decision to grant or deny a
2 12 waiver petition may be taken in accordance with Code chapter
2 13 17A, the Iowa administrative procedure Act.

LSB 1874XS (4) 84

je/sc



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Senate File 158 - Introduced

SENATE FILE
BY BOLKCOM

A BILL FOR

1 An Act providing for limited liability companies organized on a
2 low=profit basis.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1812XS (4) 84
da/nh



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Senate File 158 - Introduced continued

PAG LIN

1 1 Section 1. Section 489.201, subsection 2, paragraph a, Code
1 2 2011, is amended to read as follows:

1 3 a. The name of the limited liability company, which must
1 4 comply with section 489.108. The name of a low=profit limited
1 5 liability company must also comply with section 489.1404.

1 6 Sec. 2. Section 489.805, Code 2011, is amended to read as
1 7 follows:

1 8 489.805 Noncomplying name of foreign limited liability
1 9 company.

1 10 1. A foreign limited liability company whose name does
1 11 not comply with section 489.108 or 489.1404 shall not obtain
1 12 a certificate of authority until it adopts, for the purpose
1 13 of transacting business in this state, an alternate name that
1 14 complies with section 489.108 and 489.1404. After obtaining
1 15 a certificate of authority with an alternate name, a foreign
1 16 limited liability company shall transact business in this state
1 17 under the alternate name.

1 18 2. If a foreign limited liability company authorized to
1 19 transact business in this state changes its name to one that
1 20 does not comply with section 489.108 or 489.1404, it may not
1 21 thereafter transact business in this state until it complies
1 22 with subsection 1 and obtains an amended certificate of
1 23 authority.

1 24 Sec. 3. NEW SECTION. 489.1401 Definitions.

1 25 As used in this article, unless the context otherwise
1 26 requires:

1 27 1. "Foreign low=profit limited liability company" means a
1 28 limited liability company organized under laws other than the
1 29 laws of this state for a purpose for which a low=profit limited
1 30 liability company may be organized under section 489.1402.

1 31 2. "Low=profit limited liability company" means a limited
1 32 liability company subject to this article that is not a foreign
1 33 low=profit limited liability company.

1 34 Sec. 4. NEW SECTION. 489.1402 Organized.

1 35 A low=profit limited liability company must be organized as



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2 1 a limited liability company and a low=profit foreign limited
2 2 liability company must be organized as a foreign limited
2 3 liability company as provided in this chapter. In addition,
2 4 a low=profit limited liability company or low=profit foreign
2 5 limited liability company must meet the requirements of this
2 6 article.

2 7 Sec. 5. NEW SECTION. 489.1403 Purposes.

2 8 A limited liability company is not a low=profit limited
2 9 liability company, and a foreign limited liability company is
2 10 not a foreign low=profit limited liability company, unless all
2 11 of the following apply:

2 12 1. The limited liability company significantly furthers
2 13 the accomplishment of one or more charitable or educational
2 14 purposes within the meaning of section 170(c)(2)(B) of the
2 15 Internal Revenue Code, 26 U.S.C. { 170(c)(2)(B), and would not
2 16 have been formed but for its relationship to the accomplishment
2 17 of a charitable or educational purpose.

2 18 2. a. The limited liability company cannot have as
2 19 a significant purpose the production of income or the
2 20 appreciation of property. However, the fact that the limited
2 21 liability company produces significant income or capital
2 22 appreciation shall not, in the absence of other factors, be
2 23 conclusive evidence of a significant purpose involving the
2 24 production of income or the appreciation of property.

2 25 b. The limited liability company cannot have as a purpose
2 26 the accomplishment of a political or legislative purpose within
2 27 the meaning of section 170(c)(2)(D) of the Internal Revenue
2 28 Code, 26 U.S.C. { 170(c)(2)(D).

2 29 Sec. 6. NEW SECTION. 489.1404 Name.

2 30 1. A limited liability company is not a low=profit
2 31 limited liability company unless its name contains the words
2 32 "low=profit limited liability company" or the abbreviation
2 33 "L.P.L.L.C." or "LPLLC".

2 34 2. Subject to section 489.805, this section applies to
2 35 a foreign low=profit limited liability company transacting



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3 1 business in this state which has a certificate of authority
3 2 to transact business in this state or which has applied for a
3 3 certificate of authority.
3 4 Sec. 7. NEW SECTION. 489.1405 Certificate of organization.
3 5 1. A limited liability company is not a low=profit limited
3 6 liability company unless it is identified as a low=profit
3 7 limited liability company in its certificate of organization
3 8 as provided in section 489.201.
3 9 2. A foreign limited liability company is not a low=profit
3 10 foreign limited liability company unless it is identified as a
3 11 foreign low=profit limited liability company in its certificate
3 12 of organization as provided in section 489.802.
3 13 Sec. 8. NEW SECTION. 489.1406 Cessation.
3 14 If a low=profit limited liability company or foreign
3 15 low=profit limited liability company fails to comply with the
3 16 applicable requirements of this article, including section
3 17 489.1403, the limited liability company shall immediately
3 18 cease to be a low=profit limited liability company or foreign
3 19 low=profit limited liability company. The cessation may
3 20 be either voluntary or involuntary. The limited liability
3 21 company shall no longer refer to itself by name as required in
3 22 section 489.1404. It shall no longer be a limited liability
3 23 company under this chapter unless it amends its certificate
3 24 of organization as provided in section 489.202 to remove its
3 25 identification as a low=profit limited liability company. It
3 26 shall no longer be a foreign limited liability company under
3 27 this chapter unless it amends its certificate of authority
3 28 pursuant to section 489.805, to remove its identification as a
3 29 foreign low=profit limited liability company.
3 30 Sec. 9. NEW SECTION. 489.1407 Statutory construction.
3 31 Unless inconsistent with a provision in this article, a
3 32 low=profit limited liability company must comply with the
3 33 requirements in other articles of this chapter applicable to
3 34 a limited liability company and a foreign low=profit limited
3 35 liability company. Otherwise, the provisions of this article



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4 1 shall prevail over any inconsistent provision in another
4 2 article.

4 3 Sec. 10. DIRECTIONS TO CODE EDITOR. The Code editor shall
4 4 codify sections 489.1401 through 489.1407 as enacted in this
4 5 Act, as a new article in chapter 489.

4 6 EXPLANATION

4 7 GENERAL. A limited liability company is organized or
4 8 recognized under Code chapter 489, and entitled the "Revised
4 9 Uniform Limited Liability Company Act". The Code chapter
4 10 is divided into a number of articles. A limited liability
4 11 company (L.L.C.) is a kind of business organization usually
4 12 perpetual in duration and formed for capital acquisition and
4 13 the distribution of any profits. Members and managers are
4 14 shielded from personal liability similar to shareholders of
4 15 a corporation; but unlike a corporation, taxes are "passed
4 16 through" to investors without being taxed at the business level
4 17 (i.e., no double taxation).

4 18 A domestic limited liability company is formed by filing a
4 19 certificate of organization with the secretary of state. A
4 20 foreign limited liability company must be issued a certificate
4 21 of authority by the secretary of state. The name of the
4 22 organization must identify it as a limited liability company,
4 23 which may include an abbreviation (L.L.C.).

4 24 BILL. This bill creates a new article in Code chapter
4 25 489 dedicated for Iowa and foreign low=profit limited
4 26 liability companies. For another example of a subclass of
4 27 limited liability companies, see article 11 providing for
4 28 professional limited liability companies. A low=profit
4 29 limited liability company must be formed to accomplish a
4 30 charitable or educational purpose recognized by the Internal
4 31 Revenue Code. However, the organization is not required to
4 32 have federal tax exemption status in order to qualify as
4 33 a low=profit limited liability company. The organization
4 34 also cannot have as a significant purpose the production
4 35 of income or the appreciation of property. Its name must



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5 1 identify its legal standing under the new article (e.g.,
5 2 L.P.L.L.C.). Upon failing to comply with the applicable
5 3 requirements of the article, it immediately ceases to be a
5 4 low=profit limited liability company or foreign low=profit
5 5 limited liability company. An entity organized as a limited
5 6 liability company must amend its certificate of organization by
5 7 removing that designation, and an entity organized as a foreign
5 8 limited liability company must be issued a new certificate of
5 9 authority.

LSB 1812XS (4) 84

da/nh



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SENATE FILE
BY KETTERING

A BILL FOR

1 An Act providing a school tuition credit for certain pupils
2 attending an accredited nonpublic school and including
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1464XS (2) 84
md/sc



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1 1 Section 1. Section 256.7, Code 2011, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 31. Adopt rules relating to applications
1 4 for a school tuition credit pursuant to section 257.11B,
1 5 including application processing timelines, required
1 6 information for submission by a parent or guardian, and
1 7 penalties for noncompliance.
1 8 Sec. 2. Section 257.6, subsection 1, paragraph a,
1 9 unnumbered paragraph 1, Code 2011, is amended to read as
1 10 follows:
1 11 ~~Actual~~ Except as provided in subparagraph (8), actual
1 12 enrollment is determined annually on October 1, or the first
1 13 Monday in October if October 1 falls on a Saturday or Sunday,
1 14 and includes all of the following:
1 15 Sec. 3. Section 257.6, subsection 1, paragraph a, Code 2011,
1 16 is amended by adding the following new subparagraph:
1 17 NEW SUBPARAGRAPH. (8) Resident pupils receiving a school
1 18 tuition credit pursuant to section 257.11B, as designated by
1 19 March 1.
1 20 Sec. 4. NEW SECTION. 257.11B School tuition credits.
1 21 1. Pupils attending an accredited nonpublic school shall be
1 22 eligible to receive a school tuition credit for attendance in
1 23 the following grades according to the following schedule:
1 24 a. For the school budget year beginning July 1, 2012, pupils
1 25 in kindergarten.
1 26 b. For the school budget year beginning July 1, 2013, pupils
1 27 in kindergarten and grade one.
1 28 c. For the school budget year beginning July 1, 2014, pupils
1 29 in kindergarten and grades one and two.
1 30 d. For the school budget year beginning July 1, 2015, pupils
1 31 in kindergarten and grades one through three.
1 32 e. For the school budget year beginning July 1, 2016, pupils
1 33 in kindergarten and grades one through four.
1 34 f. For the school budget year beginning July 1, 2017, pupils
1 35 in kindergarten and grades one through five.



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2 1 g. For the school budget year beginning July 1, 2018, pupils
2 2 in kindergarten and grades one through six.
2 3 h. For the school budget year beginning July 1, 2019, pupils
2 4 in kindergarten and grades one through seven.
2 5 i. For the school budget year beginning July 1, 2020, pupils
2 6 in kindergarten and grades one through eight.
2 7 j. For the school budget year beginning July 1, 2021, pupils
2 8 in kindergarten and grades one through nine.
2 9 k. For the school budget year beginning July 1, 2022, pupils
2 10 in kindergarten and grades one through ten.
2 11 l. For the school budget year beginning July 1, 2023, pupils
2 12 in kindergarten and grades one through eleven.
2 13 m. For the school budget year beginning July 1, 2024, and
2 14 succeeding budget years, pupils in kindergarten and grades one
2 15 through twelve.
2 16 2. a. By January of the school year preceding the school
2 17 year for which the school tuition credit is requested, the
2 18 parent or guardian of the pupil requesting to receive a school
2 19 tuition credit shall submit an application to the department
2 20 of education, on forms to be developed by the department,
2 21 indicating that the parent or guardian intends to enroll the
2 22 pupil in an accredited nonpublic school.
2 23 b. By March 1, the department of education shall notify the
2 24 department of management of the number of pupils designated to
2 25 receive school tuition credits.
2 26 3. a. (1) The department of management shall assign each
2 27 designated pupil a school tuition credit in an amount equal to
2 28 thirty=five percent of the regular program foundation base per
2 29 pupil, as defined in section 257.1, subsection 2, paragraph "b".
2 30 (2) The department of education, in consultation with
2 31 the department of management, shall reduce the state aid
2 32 payments to a local public school district otherwise payable
2 33 pursuant to section 257.16 for the following school budget year
2 34 attributable to the designated pupils by sixty=five percent of
2 35 the regular program foundation base per pupil, as defined in



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3 1 section 257.1, subsection 2, paragraph "b". The regular program
3 2 foundation funds not paid to school districts due to the school
3 3 tuition credit reduction shall remain in the general fund of
3 4 the state.

3 5 (3) A public school district shall transfer twenty=five
3 6 percent of the regular program foundation base per pupil,
3 7 as defined in section 257.1, subsection 2, paragraph "b",
3 8 per designated pupil directly to the applicable accredited
3 9 nonpublic school and shall retain the remaining ten percent
3 10 of the regular program foundation base per pupil, as defined
3 11 in section 257.1, subsection 2, paragraph "b", as the pupil's
3 12 district of residence.

3 13 b. (1) Commencing in the school budget year beginning
3 14 July 1, 2024, and succeeding budget years, if the average
3 15 enrollment at an accredited nonpublic school equals seventeen
3 16 percent of the combined enrollment of the local public school
3 17 district and the accredited nonpublic school, the department of
3 18 management shall assign each designated pupil a school tuition
3 19 credit in an amount equal to forty=five percent of the regular
3 20 program foundation base per pupil, as defined in section 257.1,
3 21 subsection 2, paragraph "b".

3 22 (2) The department of education, in consultation with
3 23 the department of management, shall reduce the state aid
3 24 payments to a local public school district otherwise payable
3 25 pursuant to section 257.16 for the following school budget year
3 26 attributable to the designated pupils by fifty=five percent of
3 27 the regular program foundation base per pupil, as defined in
3 28 section 257.1, subsection 2, paragraph "b". The regular program
3 29 foundation funds not paid to school districts due to the school
3 30 tuition credit reduction shall remain in the general fund of
3 31 the state.

3 32 (3) A public school district shall transfer thirty percent
3 33 of the regular program foundation base per pupil, as defined
3 34 in section 257.1, subsection 2, paragraph "b", per designated
3 35 pupil directly to the applicable accredited nonpublic school



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4 1 and shall retain the remaining fifteen percent of the regular
4 2 program foundation base per pupil, as defined in section
4 3 257.1, subsection 2, paragraph "b", as the pupil's district of
4 4 residence.

4 5 c. The school tuition credit may also include any moneys
4 6 received for the pupil as a result of the non=English=speaking
4 7 weighting pursuant to section 280.4, subsection 3, for the
4 8 previous school year multiplied by the state cost per pupil for
4 9 the previous school year, and if the pupil is also an eligible
4 10 pupil under section 261E.6, the tuition reimbursement amount
4 11 as provided in section 261E.7.

4 12 d. Amounts payable as a school tuition credit may be paid
4 13 in a lump sum or in installments to the accredited nonpublic
4 14 school as determined by the department of education.

4 15 4. A pupil enrolled in an accredited nonpublic school who
4 16 is receiving a school tuition credit shall be considered, for
4 17 state school foundation aid purposes, to be attending school
4 18 in the pupil's district of residence. A parent or guardian
4 19 may apply on an annual basis for a school tuition credit for
4 20 each year that the pupil is enrolled in an accredited nonpublic
4 21 school.

4 22 5. In the event that a pupil requires special education
4 23 pursuant to chapter 256B, a school tuition credit may be
4 24 utilized only in the event that the pupil is enrolled in an
4 25 accredited nonpublic school that maintains a special education
4 26 instructional program that is equipped to meet the pupil's
4 27 educational needs.

4 28 Sec. 5. APPLICABILITY. This Act applies to school budget
4 29 years beginning on or after July 1, 2012.

4 30 EXPLANATION

4 31 This bill provides a school tuition credit for pupils
4 32 attending accredited nonpublic schools.

4 33 Pupils starting kindergarten in the school budget year
4 34 commencing July 1, 2012, may receive a school tuition credit
4 35 for attending an accredited nonpublic school. Each school



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5 1 budget year thereafter, another grade is made eligible for
5 2 the school tuition credit, so that in the school budget year
5 3 commencing July 1, 2024, kindergarten through grades 12 are
5 4 included.

5 5 The bill requires that a parent or guardian submit an
5 6 application to the department of education (DE) by January
5 7 of the preceding school year indicating that the parent
5 8 or guardian intends to enroll the pupil in an accredited
5 9 nonpublic school. By March 1, DE shall notify the department
5 10 of management (DOM) of the number of pupils to receive school
5 11 tuition credits.

5 12 DOM shall assign each designated pupil a credit equal to 35
5 13 percent of the regular program foundation base per pupil. DE
5 14 in consultation with DOM shall reduce the state aid payments
5 15 to a local school district for the following school budget
5 16 year by 65 percent of the regular program foundation base per
5 17 pupil attributable to each designated pupil. The funds not
5 18 paid to school districts due to the school tuition credit
5 19 shall remain in the general fund. A local school district of
5 20 residence shall then transfer 25 percent of the regular program
5 21 foundation base per pupil attributable to each designated
5 22 pupil directly to the applicable accredited nonpublic school
5 23 district and shall retain the remaining 10 percent of the
5 24 regular program foundation base per pupil attributable to each
5 25 designated pupil as the pupil's district of residence.

5 26 Beginning in the school budget year commencing July 1,
5 27 2024, and for succeeding budget years, if an accredited
5 28 nonpublic school's average enrollment equals 17 percent of the
5 29 combined enrollment of the local public school district and
5 30 the accredited nonpublic school, then DOM shall assign each
5 31 designated pupil a credit equal to 45 percent of the regular
5 32 program foundation base per pupil. DE in consultation with
5 33 DOM shall reduce the state aid payments to a local school
5 34 district for the following school budget year by 55 percent of
5 35 the regular program foundation base per pupil attributable to



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6 1 each designated pupil. The local school district of residence
6 2 shall transfer 30 percent of the regular program foundation
6 3 base per pupil attributable to each designated pupil directly
6 4 to the accredited nonpublic school and shall retain 15 percent
6 5 of the regular program foundation base per pupil as the pupil's
6 6 district of residence.

6 7 The credit may include additional moneys received for
6 8 the pupil for non-English-speaking programs or for tuition
6 9 reimbursement under the postsecondary enrollment options
6 10 program.

6 11 DE shall determine whether the credit amounts are to be paid
6 12 in a lump sum or in installments to the accredited nonpublic
6 13 schools.

6 14 A student attending an accredited nonpublic school shall
6 15 be counted as attending school in the pupil's district of
6 16 residence for state school foundation purposes. A parent or
6 17 guardian may reapply for the credit each year that the credit
6 18 is available and that the pupil is enrolled in an accredited
6 19 nonpublic school.

6 20 The bill provides that if a pupil requires special education
6 21 pursuant to Code chapter 256B, a school tuition credit may
6 22 be used only in the event that the pupil is enrolled in an
6 23 accredited nonpublic school which maintains a special education
6 24 instructional program that is appropriate to meet the pupil's
6 25 educational needs.

6 26 The state board of education is directed to adopt rules
6 27 relating to the applications for the school tuition credit.
6 28 Code section 257.6 is amended to reflect that pupils receiving
6 29 a credit are counted as part of a local public school
6 30 district's actual enrollment.

6 31 The bill applies to school budget years beginning on or after
6 32 July 1, 2012.

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md/sc



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SENATE FILE
BY FEENSTRA

(COMPANION TO LSB
1675HH BY HAGENOW)

A BILL FOR

1 An Act relating to the establishment of an independent private
2 instruction option for students of compulsory attendance
3 age.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1675SS (4) 84
kh/sc



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1 1 Section 1. Section 261E.8, subsection 2, Code 2011, is
1 2 amended to read as follows:
1 3 2. Students from accredited nonpublic schools and students
1 4 receiving competent private instruction or independent private
1 5 instruction under chapter 299A may access the program through
1 6 the school district in which the accredited nonpublic school or
1 7 private institution is located.
1 8 Sec. 2. Section 299.1, subsection 1, Code 2011, is amended
1 9 to read as follows:
1 10 1. Except as provided in section 299.2, the parent,
1 11 guardian, or legal or actual custodian of a child who is of
1 12 compulsory attendance age, shall cause the child to attend some
1 13 public school, or an accredited nonpublic school, or place
1 14 the child under competent private instruction or independent
1 15 private instruction in accordance with the provisions of
1 16 chapter 299A, during a school year, as defined under section
1 17 279.10.
1 18 Sec. 3. Section 299.1B, Code 2011, is amended to read as
1 19 follows:
1 20 299.1B Failure to attend ==== driver's license.
1 21 A person who is of compulsory attendance age, who is not
1 22 exempt under section 299.2, who does not attend a public
1 23 school, or an accredited nonpublic school, who is not
1 24 receiving competent private instruction or independent private
1 25 instruction in accordance with the provisions of chapter
1 26 299A, and who does not attend an alternative school, or adult
1 27 education classes, shall not receive an intermediate or full
1 28 driver's license until age eighteen.
1 29 Sec. 4. Section 299.6A, subsection 1, Code 2011, is amended
1 30 to read as follows:
1 31 1. In lieu of a criminal proceeding under section 299.6,
1 32 a county attorney may bring a civil action against a parent,
1 33 guardian, or legal or actual custodian of a child who is of
1 34 compulsory attendance age, has not completed educational
1 35 requirements, and is truant, if the parent, guardian, or legal



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2 1 or actual custodian has failed to cause the child to attend a
2 2 public school, or an accredited nonpublic school, or placed
2 3 the child under competent private instruction or independent
2 4 private instruction in the manner provided in this chapter. If
2 5 the court finds that the parent, guardian, or legal or actual
2 6 custodian has failed to cause the child to attend as required
2 7 in this section, the court shall assess a civil penalty of not
2 8 less than one hundred but not more than one thousand dollars
2 9 for each violation established.

2 10 Sec. 5. Section 299.8, Code 2011, is amended to read as
2 11 follows:

2 12 299.8 "Truant" defined.

2 13 Any child of compulsory attendance age who fails to attend
2 14 school as provided in this chapter, or as required by the
2 15 school board's or school governing body's attendance policy,
2 16 or who fails to attend competent private instruction or
2 17 independent private instruction under chapter 299A, without
2 18 reasonable excuse for the absence, shall be deemed to be a
2 19 truant. A finding that a child is truant, however, shall not
2 20 by itself mean that the child is a child in need of assistance
2 21 within the meaning of chapter 232 and shall not be the sole
2 22 basis for a child in need of assistance petition.

2 23 Sec. 6. Section 299.11, unnumbered paragraph 1, Code 2011,
2 24 is amended to read as follows:

2 25 The truancy officer may take into custody without warrant
2 26 any apparently truant child and place the child in the
2 27 charge of the school principal, or the principal's designee,
2 28 designated by the board of directors of the school district
2 29 in which the child resides, or of any nonpublic school, or
2 30 any authority providing competent private instruction or
2 31 independent private instruction as defined in section 299A.1,
2 32 subsection 2, designated by the parent, guardian, or legal or
2 33 actual custodian; but if it is other than a public school,
2 34 the instruction and maintenance of the child shall be without
2 35 expense to the school district. If a child is taken into



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3 1 custody under this section, the truancy officer shall make
3 2 every reasonable attempt to immediately notify the parent,
3 3 guardian, or legal or actual custodian of the child's location.
3 4 Sec. 7. Section 299.12, subsection 2, Code 2011, is amended
3 5 to read as follows:

3 6 2. This section is not applicable to a child who is
3 7 receiving competent private instruction or independent private
3 8 instruction in accordance with the requirements of chapter
3 9 299A. If a child is not in compliance with the attendance
3 10 requirements established under section 299.1, and has not
3 11 completed educational requirements through the sixth grade,
3 12 and the school has used every means available to assure the
3 13 child does attend, the school truancy officer shall contact
3 14 the child's parent, guardian, or legal or actual custodian to
3 15 participate in an attendance cooperation meeting. The parties
3 16 to the attendance cooperation meeting may include the child
3 17 and shall include the child's parent, guardian, or legal or
3 18 actual custodian and the school truancy officer. The school
3 19 truancy officer contacting the participants in the attendance
3 20 cooperation meeting may invite other school officials, a
3 21 designee of the juvenile court, the county attorney or the
3 22 county attorney's designee, or other persons deemed appropriate
3 23 to participate in the attendance cooperation meeting.

3 24 Sec. 8. Section 299A.1, Code 2011, is amended to read as
3 25 follows:

3 26 299A.1 ~~Private~~ Competent private instruction and independent
3 27 private instruction.

3 28 1. The parent, guardian, or legal custodian of a child of
3 29 compulsory attendance age who places the child under private
3 30 instruction shall provide, unless otherwise exempted, competent
3 31 private instruction or independent private instruction in
3 32 accordance with this chapter. A parent, guardian, or legal
3 33 custodian of a child of compulsory attendance age who places
3 34 the child under private instruction which is not competent
3 35 private instruction or independent private instruction,



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4 1 or otherwise fails to comply with the requirements of this
4 2 chapter, is subject to the provisions of sections 299.1 through
4 3 299.4 and the penalties provided in section 299.6.

4 4 2. For purposes of this chapter, ~~"competent~~ and chapter 299:

4 5 a. "Competent private instruction" means private instruction
4 6 provided on a daily basis for at least one hundred forty-eight
4 7 days during a school year, to be met by attendance for at
4 8 least thirty-seven days each school quarter, by or under the
4 9 supervision of a licensed practitioner in the manner provided
4 10 under section 299A.2, or other person under section 299A.3,
4 11 which results in the student making adequate progress.

4 12 ~~For purposes of this chapter and chapter 299, "private~~
4 13 ~~instruction"~~

4 14 b. "Independent private instruction" means instruction that
4 15 meets the following criteria:

4 16 (1) Is not accredited.

4 17 (2) Enrolls not more than four unrelated students.

4 18 (3) Does not charge tuition, fees, or other remuneration for
4 19 instruction.

4 20 (4) Provides private or religious-based instruction as its
4 21 primary purpose.

4 22 (5) Provides enrolled students with instruction in
4 23 mathematics, reading and language arts, science, and social
4 24 studies.

4 25 (6) Provides, upon written request from the superintendent
4 26 of the school district in which the independent private
4 27 instruction is provided, or from the director of the department
4 28 of education, a report identifying the primary instructor,
4 29 location, name of the authority responsible for the independent
4 30 private instruction, and the names of the students enrolled.

4 31 (7) Is not a nonpublic school and does not provide competent
4 32 private instruction as defined in this subsection.

4 33 (8) Is exempt from all state statutes and administrative
4 34 rules applicable to a school, a school board, or a school
4 35 district, except as otherwise provided in chapter 299 and this



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5 1 chapter.

5 2 c. "Private instruction" means instruction using a plan and
5 3 a course of study in a setting other than a public or organized
5 4 accredited nonpublic school.

5 5 Sec. 9. Section 299A.11, Code 2011, is amended to read as
5 6 follows:

5 7 299A.11 Student records confidential.

5 8 Notwithstanding any provision of law or rule to the
5 9 contrary, personal information in records regarding a child
5 10 receiving competent private instruction or independent private
5 11 instruction pursuant to this chapter, which are maintained,

5 12 created, collected, or assembled by or for a state agency,
5 13 shall be kept confidential in the same manner as personal
5 14 information in student records maintained, created, collected,
5 15 or assembled by or for a school corporation or educational
5 16 institution in accordance with section 22.7, subsection 1.

5 17 Sec. 10. Section 321.178, subsection 1, paragraph c, Code
5 18 2011, is amended to read as follows:

5 19 c. Every public school district in Iowa shall offer or make
5 20 available to all students residing in the school district,
5 21 or Iowa students attending a nonpublic school or receiving
5 22 independent private instruction as defined in section 299A.1,

5 23 subsection 2, in the district, an approved course in driver
5 24 education. The receiving district shall be the school district
5 25 responsible for making driver education available to a student
5 26 participating in open enrollment under section 282.18. The
5 27 courses may be offered at sites other than at the public
5 28 school, including nonpublic school facilities within the public
5 29 school districts. An approved course offered during the summer
5 30 months, on Saturdays, after regular school hours during the
5 31 regular terms or partly in one term or summer vacation period
5 32 and partly in the succeeding term or summer vacation period,
5 33 as the case may be, shall satisfy the requirements of this
5 34 section to the same extent as an approved course offered during
5 35 the regular school hours of the school term. A student who



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6 1 successfully completes and obtains certification in an approved
6 2 course in driver education or an approved course in motorcycle
6 3 education may, upon proof of such fact, be excused from any
6 4 field test which the student would otherwise be required to
6 5 take in demonstrating the student's ability to operate a motor
6 6 vehicle. A student shall not be excused from any field test
6 7 if a parent, guardian, or instructor requests that a test
6 8 be administered. A final field test prior to a student's
6 9 completion of an approved course shall be administered by a
6 10 person qualified as a classroom driver education instructor and
6 11 certified to provide street and highway driving instruction. A
6 12 person qualified as a classroom driver education instructor but
6 13 not certified to provide street and highway driving instruction
6 14 may administer the final field test if accompanied by another
6 15 person qualified to provide street and highway driving
6 16 instruction.

6 17 EXPLANATION

6 18 This bill establishes under the Code chapter governing
6 19 private instruction an option for independent private
6 20 instruction.

6 21 Under the bill, "independent private instruction" means
6 22 instruction that is not accredited; enrolls not more than
6 23 four unrelated students; does not charge tuition, fees,
6 24 or other remuneration for instruction; provides private or
6 25 religious-based instruction as its primary purpose; provides
6 26 enrolled students with instruction in mathematics, reading and
6 27 language arts, science, and social studies; provides, upon
6 28 written request from the superintendent of the school district
6 29 in which the independent private instruction is provided or
6 30 from the director of the department of education, a report
6 31 identifying the primary instructor, location, name of the
6 32 authority responsible for the independent private instruction,
6 33 and the names of the students enrolled; is not a nonpublic
6 34 school and is distinct from competent private instruction as
6 35 defined in Code chapter 299A(2); and is exempt from all state



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7 1 statutes and administrative rules applicable to a school,
7 2 a school board, or a school district, except as otherwise
7 3 provided in Code chapters 299 and 299A, relating to compulsory
7 4 education and private instruction.
7 5 Students who are receiving independent private instruction
7 6 are allowed to access the district-to-community college sharing
7 7 or concurrent enrollment program through the school district in
7 8 which the private institution is located.
7 9 Students who receive independent private instruction are
7 10 not deemed truant unless they fail to attend the independent
7 11 private instruction. A truancy officer may take into custody
7 12 without warrant any apparently truant child and place the child
7 13 enrolled in independent private instruction in the charge
7 14 of the authority providing independent private instruction
7 15 designated by the parent, guardian, or legal or actual
7 16 custodian. Code section 299.12, which provides for attendance
7 17 cooperation meetings and agreements, is inapplicable to a child
7 18 receiving independent private instruction.
7 19 Personal information in records regarding a child receiving
7 20 independent private instruction that are maintained, created,
7 21 collected, or assembled by or for a state agency, shall be kept
7 22 confidential in the same manner as personal information in
7 23 student records maintained, created, collected, or assembled by
7 24 or for a school corporation or educational institution.
7 25 The public school district in which a student receives
7 26 independent private instruction shall offer or make available
7 27 to the student an approved course in driver education.
7 28 A student receiving independent private instruction is not
7 29 required to meet the competent private instruction requirements
7 30 of Code chapter 299A, such as annual achievement evaluations
7 31 and requirements establishing consequences for failure to make
7 32 adequate progress, nor are they eligible to participate in
7 33 dual enrollment and the home school assistance program. A
7 34 child identified as requiring special education is eligible for
7 35 placement under competent private instruction, but not if the



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8 1 child is under independent private instruction.
LSB 1675SS (4) 84
kh/sc



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SENATE FILE

BY SODDERS, DOTZLER,
HATCH, BOWMAN, RIELLY,
HORN, KIBBIE,
GRONSTAL, DANDEKAR,
WILHELM, SCHOENJAHN,
BLACK, and COURTNEY

A BILL FOR

1 An Act relating to economic development by making changes to
2 the administration of the save our small businesses fund and
3 program and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1735XS (10) 84
tw/sc



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1 1 Section 1. Section 15.301, subsection 1, paragraph c, Code
1 2 2011, is amended to read as follows:
1 3 c. (1) If, on March 31, ~~2011~~ 2013, there are unobligated
1 4 moneys in the fund, such unobligated moneys shall revert to the
1 5 general fund of the state.
1 6 (2) For each quarter, beginning with the first quarter after
1 7 the reversion of moneys pursuant to subparagraph (1) and ending
1 8 with the last quarter prior to the reversion of moneys pursuant
1 9 to subparagraph (3), the department shall, on the last day of
1 10 the quarter, transfer to the general fund of the state the
1 11 balance of unencumbered moneys in the fund.
1 12 (3) On March 31, ~~2016~~ 2018, all moneys in the fund shall
1 13 revert to the general fund of the state.
1 14 Sec. 2. Section 15.301, subsection 2, paragraph a, Code
1 15 2011, is amended to read as follows:
1 16 a. The department shall establish and administer a program
1 17 for purposes of providing financial assistance to eligible
1 18 small businesses. For purposes of this section, "financial
1 19 assistance" means loans at an interest rate not to exceed three
1 20 and nine-tenths percent per annum and "eligible small business"
1 21 means a small business meeting the requirements of subsection
1 22 3. In administering the program, the department may negotiate
1 23 the terms on which the financial assistance is provided and may
1 24 include such terms in the loan agreements as are best designed
1 25 to effectuate the program's goals. Such terms may provide for
1 26 up to six months of interest-free financing.
1 27 Sec. 3. Section 15.301, subsection 2, paragraph e, Code
1 28 2011, is amended to read as follows:
1 29 e. The department, under the terms of an agreement with
1 30 ~~the~~ an organization designated pursuant to paragraph "b",
1 31 shall begin to provide financial assistance from the fund not
1 32 later than August 1, 2010, and shall to the extent practicable
1 33 obligate all available moneys in the fund prior to March 31,
1 34 ~~2011~~ 2013.
1 35 Sec. 4. Section 15.301, subsection 3, paragraph d, Code



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2 1 2011, is amended to read as follows:

2 2 d. The business has a business plan and has received
2 3 assistance in the development stage or the expansion stage from
2 4 ~~a~~ one of the following:

2 5 (1) A small business development center ~~or from a~~.

2 6 (2) A qualified public or nonprofit small business
2 7 consultant as defined by the department.

2 8 (3) A bank, credit union, or extension office deemed
2 9 capable of administering the provisions of this section by the
2 10 department.

2 11 Sec. 5. Section 15.301, subsection 5, paragraph c, Code
2 12 2011, is amended to read as follows:

2 13 c. (1) An eligible business that receives financial
2 14 assistance under this section shall not use such financial
2 15 assistance for purposes of meeting payroll obligations to
2 16 employees. However, the department may authorize an eligible
2 17 business to use not more than twenty-five percent of the loan
2 18 proceeds for purposes of meeting certain eligible operational
2 19 expenses.

2 20 (2) The department shall by rule determine what expenses
2 21 qualify as eligible operational expenses. In making such a
2 22 determination, the department shall consider factors such as
2 23 the availability and sufficiency of collateral, operational
2 24 cash flow, credit history, and adequacy of insurance coverage.

2 25 Sec. 6. 2010 Iowa Acts, chapter 1184, section 43, is amended
2 26 to read as follows:

2 27 SEC. 43. SAVE OUR SMALL BUSINESSES FUND APPROPRIATION.

2 28 There is appropriated from the school infrastructure fund
2 29 created in section 12.82 to the department of economic
2 30 development for deposit in the save our small businesses fund
2 31 for the fiscal year beginning July 1, 2010, and ending June 30,
2 32 2011, the following amount, or so much thereof as is necessary,
2 33 to be used for the purposes designated:

2 34 For purposes of providing financial assistance under the
2 35 save our small businesses program under section 15.301:



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3 1 \$ 5,000,000

3 2 Of the moneys appropriated pursuant to this section, the
3 3 department may allocate an amount not to exceed two percent of
3 4 the moneys appropriated for purposes of retaining the services
3 5 of an organization designated pursuant to section 15.301,
3 6 subsection 2, paragraph "b".

3 7 Of the moneys appropriated pursuant to this section, the
3 8 department may allocate not more than \$25,000 for purposes of
3 9 marketing the save our small businesses program.

3 10 Notwithstanding section 8.33, moneys appropriated in this
3 11 section that remain unencumbered or unobligated at the close of
3 12 the fiscal year shall not revert but shall remain available for
3 13 expenditure for the purposes designated.

3 14 Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
3 15 immediate importance, takes effect upon enactment.

3 16 EXPLANATION

3 17 This bill relates to the administration of the save our
3 18 small businesses fund and program by the department of economic
3 19 development.

3 20 The bill extends by two years the time period during which
3 21 the department must obligate the funds available under the
3 22 program, allows the department to negotiate the terms on which
3 23 financial assistance is provided, directs the department to
3 24 accept business plans from banks, credit unions, and extension
3 25 offices, allows the department to authorize up to 25 percent of
3 26 the loan proceeds for certain operational expenses, and allows
3 27 the department to use up to \$25,000 of the moneys in the fund
3 28 for purposes of marketing the program.

3 29 Since the program has a statutorily defined schedule of
3 30 reversions to the general fund, the bill amends 2010 Iowa Acts
3 31 chapter 1184 to notwithstanding the reversion of programs moneys
3 32 to the general fund at the close of the fiscal year pursuant to
3 33 Code section 8.33.

3 34 The bill takes effect upon enactment.

LSB 1735XS (10) 84

tw/sc



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SENATE FILE

BY SORENSON, CHELGREN,
JOHNSON, BERTRAND,
WHITVER, ZAUN, HAHN,
BACON, ANDERSON,
HAMERLINCK, FEENSTRA,
ERNST, and SMITH

(COMPANION TO LSB
1527HH by pearson)

A BILL FOR

1 An Act relating to the carrying of weapons including provisions
2 relating to permits to carry weapons and providing a
3 penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TL5B 1527SS (11) 84
rh/rj



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1 1 Section 1. Section 80A.13, Code 2011, is amended to read as
1 2 follows:

1 3 80A.13 Campus weapon requirements.

1 4 An individual employed by a college or university, or by a
1 5 private security business holding a contract with a college or
1 6 university, who performs private security duties on a college
1 7 or university campus and who carries a weapon while performing
1 8 these duties shall ~~meet all of the following requirements:~~

1 9 ~~1. File with the sheriff of the county in which the campus~~
~~1 10 is located evidence that the individual has successfully~~
~~1 11 completed an approved firearms training program under section~~
~~1 12 724.9. This requirement does not apply to armored car~~
~~1 13 personnel.~~

1 14 ~~2. Possess a permit to carry weapons issued by the sheriff~~
~~1 15 of the county in which the campus is located under sections~~
~~1 16 724.6 through 724.11. This requirement does not apply to~~
~~1 17 armored car personnel.~~

1 18 ~~3. File~~ file with the sheriff of the county in which the
1 19 campus is located a sworn affidavit from the employer outlining
1 20 the nature of the duties to be performed and justification of
1 21 the need to go armed.

1 22 Sec. 2. Section 724.4, Code 2011, is amended to read as
1 23 follows:

1 24 724.4 Carrying weapons.

1 25 ~~1. Except as otherwise provided in this section, a person~~
~~1 26 who goes armed with a dangerous weapon concealed on or about~~
~~1 27 the person, or who, within the limits of any city, goes~~
~~1 28 armed with a pistol or revolver, or any loaded firearm of~~
~~1 29 any kind, whether concealed or not, or who knowingly carries~~
~~1 30 or transports in a vehicle a pistol or revolver, commits~~
~~1 31 an aggravated misdemeanor. A person who goes armed with a~~
~~1 32 dangerous weapon with the intent to commit a crime of violence~~
~~1 33 commits a class "D" felony. This subsection applies regardless~~
~~1 34 of whether the dangerous weapon is concealed or not concealed~~
~~1 35 on or about the person and regardless of whether the dangerous~~



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2 1 weapon is transported in a vehicle. For purposes of this
2 2 subsection, "crime of violence" means a felony which has, as an
2 3 element of the offense, the use of physical force by one person
2 4 against another person.

2 5 2. A person who goes armed with a knife concealed on
2 6 or about the person, if the person uses the knife in the
2 7 commission of a crime, commits an aggravated misdemeanor.

2 8 3. A person who goes armed with a knife concealed on or
2 9 about the person, if the person does not use the knife in the
2 10 commission of a crime:

2 11 a. If the knife has a blade exceeding eight inches in
2 12 length, commits an aggravated misdemeanor.

2 13 b. If the knife has a blade exceeding five inches but
2 14 not exceeding eight inches in length, commits a serious
2 15 misdemeanor.

2 16 4. Subsections 1 through 3 do not apply to any of the
2 17 following:

2 18 a. A person who for any lawful purpose goes armed with
2 19 a dangerous weapon in the person's own dwelling or place of
2 20 business, or on land owned or possessed by the person.

2 21 b. A peace officer, when the officer's duties require the
2 22 person to carry such weapons.

2 23 ~~c. A member of the armed forces of the United States or~~
~~2 24 of the national guard or person in the service of the United~~
~~2 25 States, when the weapons are carried in connection with the~~
~~2 26 person's duties as such.~~

2 27 ~~d. A correctional officer, when the officer's duties~~
~~2 28 require, serving under the authority of the Iowa department of~~
~~2 29 corrections.~~

2 30 ~~e. c.~~ c. A person who for any lawful purpose carries an
2 31 unloaded pistol, revolver, or other dangerous weapon inside a
2 32 closed and fastened container or securely wrapped package which
2 33 is too large to be concealed on the person.

2 34 ~~f. A person who for any lawful purpose carries or transports~~
~~2 35 an unloaded pistol or revolver in a vehicle inside a closed~~



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~~3 1 and fastened container or securely wrapped package which is~~
~~3 2 too large to be concealed on the person or inside a cargo~~
~~3 3 or luggage compartment where the pistol or revolver will not~~
~~3 4 be readily accessible to any person riding in the vehicle or~~
~~3 5 common carrier.~~

3 6 g. A person while the person is lawfully engaged in target
~~3 7 practice on a range designed for that purpose or while actually~~
~~3 8 engaged in lawful hunting.~~

3 9 ~~h.~~ d. A person who carries a knife used in hunting or
3 10 fishing, while actually engaged in lawful hunting or fishing.

3 11 i. A person who has in the person's possession and who
~~3 12 displays to a peace officer on demand a valid permit to carry~~
~~3 13 weapons which has been issued to the person, and whose conduct~~
~~3 14 is within the limits of that permit. A person shall not be~~
~~3 15 convicted of a violation of this section if the person produces~~
~~3 16 at the person's trial a permit to carry weapons which was valid~~
~~3 17 at the time of the alleged offense and which would have brought~~
~~3 18 the person's conduct within this exception if the permit had~~
~~3 19 been produced at the time of the alleged offense.~~

3 20 j. e. A law enforcement officer from another state when the
3 21 officer's duties require the officer to carry the weapon and
3 22 the officer is in this state for any of the following reasons:

3 23 (1) The extradition or other lawful removal of a prisoner
3 24 from this state.

3 25 (2) Pursuit of a suspect in compliance with chapter 806.

3 26 (3) Activities in the capacity of a law enforcement officer
3 27 with the knowledge and consent of the chief of police of the
3 28 city or the sheriff of the county in which the activities occur
3 29 or of the commissioner of public safety.

3 30 ~~k.~~ f. A person engaged in the business of transporting
3 31 prisoners under a contract with the Iowa department of
3 32 corrections or a county sheriff, a similar agency from another
3 33 state, or the federal government.

3 34 Sec. 3. Section 724.4B, subsection 2, paragraph a, Code
3 35 2011, is amended to read as follows:



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4 1 a. A person listed under section 724.4, subsection 4,
4 2 ~~paragraphs~~ paragraph "b" through "f", "c", or "j" "e".

4 3 Sec. 4. Section 724.6, Code 2011, is amended to read as
4 4 follows:

4 5 724.6 Professional permit to carry weapons.

4 6 ~~1. A person may be issued a permit to carry weapons~~
~~4 7 when the person's employment who is employed in a private~~
4 8 investigation business or private security business licensed
4 9 under chapter 80A, or a person's employment as a peace officer,
4 10 correctional officer, security guard, bank messenger or other
4 11 person transporting property of a value requiring security,
4 12 or in police work, whose employment reasonably justifies that
4 13 person going armed, shall not, as a condition of employment,
4 14 be required to obtain a permit to carry weapons under this
4 15 section but shall be issued a permit to carry weapons under
4 16 this section if the person chooses to apply for the permit
4 17 and meets the requirements of sections 724.8 through 724.10.
4 18 The permit shall be on a form prescribed and published by the
4 19 commissioner of public safety, shall identify the holder,
4 20 and shall state the nature of the employment requiring the
4 21 holder to go armed. A permit so issued, other than to a peace
4 22 officer, shall authorize state that the person to whom it is
4 23 issued is authorized to go armed anywhere in the state, ~~only~~
4 24 while engaged in the employment, and while going to and from
4 25 the place of the employment. A permit issued to a certified
4 26 peace officer shall authorize state that the peace officer is
4 27 authorized to go armed anywhere in the state at all times.
4 28 Permits shall expire ~~twelve months~~ five years after the date
4 29 when issued except that permits issued to peace officers and
4 30 correctional officers are valid through the officer's period of
4 31 employment unless otherwise canceled. When the employment is
4 32 terminated, the holder of the permit shall surrender it to the
4 33 issuing officer for cancellation.

4 34 ~~2. Notwithstanding subsection 1, fire fighters, as defined~~
~~4 35 in section 411.1, subsection 10, airport fire fighters included~~



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~~5 1 under section 97B.49B, and emergency medical care providers,~~
~~5 2 as defined in section 147A.1, shall not, as a condition of~~
~~5 3 employment, be required to obtain a permit under this section.~~
~~5 4 However, the provisions of this subsection shall not apply to a~~
~~5 5 person designated as an arson investigator by the chief fire~~
~~5 6 officer of a political subdivision.~~
5 7 Sec. 5. Section 724.7, subsection 1, Code 2011, is amended
5 8 to read as follows:
5 9 1. ~~Any~~ A person who is not ~~disqualified under section 724.8,~~
~~5 10 otherwise prohibited from possessing or transporting a firearm~~
~~5 11 and who satisfies the training requirements of section 724.9,~~
~~5 12 and who files an application in accordance with section 724.10~~
5 13 meets the requirements in sections 724.8 through 724.10 shall
5 14 be issued a nonprofessional permit to carry weapons if the
5 15 person chooses to apply for such a permit. Such permits shall
5 16 be on a form prescribed and published by the commissioner of
5 17 public safety, which shall be readily distinguishable from
5 18 the professional permit, and shall identify the holder of the
5 19 permit. ~~Such permits shall not be issued for a particular~~
~~5 20 weapon and shall not contain information about a particular~~
~~5 21 weapon including the make, model, or serial number of the~~
~~5 22 weapon or any ammunition used in that weapon. All permits so~~
5 23 issued shall be for a period of five years and shall be valid
~~5 24 throughout the state except where the possession or carrying of~~
~~5 25 a firearm is prohibited by state or federal law.~~
5 26 Sec. 6. Section 724.8, Code 2011, is amended by striking the
5 27 section and inserting in lieu thereof the following:
5 28 724.8 Persons ineligible for permit to carry weapons.
5 29 An applicant for a permit to carry a weapon pursuant to
5 30 section 724.6 or 724.7 who is otherwise prohibited by state or
5 31 federal law from possessing or transporting a firearm shall not
5 32 be eligible for a permit to carry weapons.
5 33 Sec. 7. Section 724.9, Code 2011, is amended by striking the
5 34 section and inserting in lieu thereof the following:
5 35 724.9 Firearm training program.



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6 1 A training program to qualify persons in the safe use of
6 2 firearms shall be provided by the issuing officer of permits,
6 3 as provided in section 724.11. The county sheriff or the
6 4 commissioner of public safety conducting the training program
6 5 within their respective jurisdictions shall contract with a
6 6 private individual or a professional organization who shall
6 7 conduct the training consistent with the standards set forth
6 8 by the national rifle association to provide such training.
6 9 Any person eligible to be issued a permit to carry weapons
6 10 may enroll in such course. A fee sufficient to cover the
6 11 cost of the program may be charged to each person attending.
6 12 Certificates of completion, on a form prescribed and published
6 13 by the commissioner of public safety, shall be issued to each
6 14 person who successfully completes the program. A person shall
6 15 not be issued either a professional or nonprofessional permit
6 16 unless the person has received a certificate of completion
6 17 or is a certified peace officer. An applicant shall not be
6 18 required to shoot any weapon as a provision of passing a
6 19 training program pursuant to this section.

6 20 Sec. 8. Section 724.11, Code 2011, is amended to read as
6 21 follows:

6 22 724.11 Issuance of permit to carry weapons.

6 23 1. ~~Applications~~ An application for permits a permit to
6 24 carry weapons shall, if made, be made to the sheriff of the
6 25 county in which the applicant resides. Applications for
6 26 professional permits to carry weapons for persons who are
6 27 nonresidents of the state, or whose need to go armed arises
6 28 out of employment by the state, if made, shall be made to the
6 29 commissioner of public safety. In either case, the sheriff
6 30 or commissioner, before issuing the permit, shall determine
6 31 that the requirements of sections 724.6 to 724.10 have been
6 32 satisfied and the applicant is not otherwise prohibited
6 33 by state or federal law from possessing or transporting a
6 34 firearm. However, for renewal of a permit the training program
~~6 35 requirements in section 724.9, subsection 1, shall apply~~



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~~7 1 or the renewal applicant may choose to qualify on a firing~~
~~7 2 range under the supervision of an instructor certified by the~~
~~7 3 national rifle association or the department of public safety~~
~~7 4 or another state's department of public safety, state police~~
~~7 5 department, or similar certifying body. Such training or~~
~~7 6 qualification must occur within the twelve-month period prior~~
~~7 7 to the expiration of the applicant's current permit.~~
7 8 ~~2.~~ 2. Neither the sheriff nor the commissioner shall require an
~~7 9 applicant for a permit to carry weapons to provide information~~
~~7 10 identifying a particular weapon in the application including~~
~~7 11 the make, model, or serial number of the weapon or any~~
~~7 12 ammunition used in that particular weapon.~~
7 13 ~~3.~~ 2. The issuing officer shall collect a fee of fifty
7 14 dollars, except from a duly appointed peace officer or
7 15 correctional officer, for each permit issued. Renewal permits
7 16 or duplicate permits shall be issued for a fee of ~~twenty-five~~
~~7 17 five dollars, provided the application for such renewal permit~~
~~7 18 is received by the issuing officer at least thirty days prior~~
~~7 19 to the expiration of the applicant's current permit. The~~
7 20 issuing officer shall notify the commissioner of public safety
7 21 of the issuance of any permit at least monthly and forward to
7 22 the commissioner an amount equal to ~~ten~~ two dollars for each
7 23 permit issued and ~~five dollars~~ one dollar for each renewal
7 24 or duplicate permit issued. All such fees received by the
7 25 commissioner shall be paid to the treasurer of state and
7 26 deposited in the operating account of the department of public
7 27 safety to offset the cost of administering this chapter.
7 28 ~~Notwithstanding section 8.33, any~~ Any unspent balance as of
7 29 June 30 of each year shall ~~not~~ revert to the general fund of the
7 30 state as provided in section 8.33.
7 31 ~~4.~~ 3. The sheriff or commissioner of public safety shall
7 32 approve or deny an initial or renewal application submitted
7 33 under this section within ~~thirty~~ three business days of
7 34 receipt of the application and, if approved, shall issue the
7 35 permit. A person whose application for a permit under this



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8 1 chapter is denied may seek review of the denial under section
8 2 724.21A. The failure to approve or deny an initial or renewal
8 3 application shall result in a decision of approval.

8 4 Sec. 9. REPEAL. Section 724.5, Code 2011, is repealed.

8 5 EXPLANATION

8 6 This bill relates to the carrying of weapons and providing
8 7 a penalty.

8 8 Current law provides that a person who goes armed with a
8 9 dangerous weapon concealed on or about the person, or who,
8 10 within the limits of any city, goes armed with a pistol or
8 11 revolver, or any loaded firearm of any kind, whether concealed
8 12 or not, or who knowingly carries or transports in a vehicle a
8 13 pistol or revolver, commits an aggravated misdemeanor unless
8 14 certain circumstances apply including if the person has in
8 15 the person's possession a valid permit to carry weapons. The
8 16 bill eliminates this provision and provides that a person who
8 17 goes armed with a dangerous weapon with the intent to commit
8 18 a crime of violence commits a class "D" felony regardless of
8 19 whether the dangerous weapon is concealed or not concealed on
8 20 or about the person and regardless of whether the dangerous
8 21 weapon is transported in a vehicle. For purposes of the
8 22 bill, "crime of violence" means a felony which has, as an
8 23 element of the offense, the use of physical force by one person
8 24 against another person. A class "D" felony is punishable by
8 25 confinement for no more than five years and a fine of at least
8 26 \$750 but not more than \$7,500.

8 27 The bill eliminates the requirement that a person, including
8 28 a person employed in a certain occupation whose employment
8 29 reasonably justifies that person going armed with a dangerous
8 30 weapon, must have and carry a professional or nonprofessional
8 31 permit to carry a weapon and makes it optional to apply for and
8 32 receive such permits. However, if a person applies for either
8 33 permit, the issuing officer (sheriff or commissioner of public
8 34 safety) shall issue the permit if certain requirements are met.
8 35 Such permits shall be issued for a five=year period at a cost



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9 1 of \$50. If a person chooses to apply for a professional or
9 2 nonprofessional permit to carry weapons, the person is required
9 3 to complete a firearm training program conducted by a private
9 4 individual or a professional organization who shall conduct
9 5 the training consistent with the standards set forth by the
9 6 national rifle association.

9 7 The bill makes changes to current requirements relating to a
9 8 person's eligibility to apply for a permit to carry weapons,
9 9 firearms training requirements, and the issuance of permits
9 10 to carry weapons. The bill provides that an applicant for a
9 11 professional or nonprofessional permit to carry weapons who is
9 12 otherwise prohibited by state or federal law from possessing
9 13 or transporting a firearm shall not be eligible for the
9 14 permit. The bill provides that the issuing officer (county
9 15 sheriff or the commissioner of public safety) conducting
9 16 a firearm training program is required to contract with a
9 17 private individual or a professional organization to conduct
9 18 the training consistent with the standards set forth by the
9 19 national rifle association. Any person eligible to be issued
9 20 a permit to carry weapons may enroll in such course. A fee
9 21 sufficient to cover the cost of the program may be charged to
9 22 each person attending. A person shall not be issued either a
9 23 professional or nonprofessional permit unless the person has
9 24 received a certificate of completion or is a certified peace
9 25 officer. An applicant shall not be required to shoot any
9 26 weapon as a provision of passing such a training program. The
9 27 bill also reduces fees collected for renewal permits as well
9 28 as certain processing fees. The bill changes the period of
9 29 time that an issuing officer has to approve or deny an initial
9 30 or renewal application from within 30 days of receipt of the
9 31 application to within three business days of receipt of the
9 32 application.

9 33 The bill also repeals Code section 724.5 relating to a
9 34 person's duty to carry a weapons permit if the person goes
9 35 armed with a revolver, pistol, or pocket billy concealed upon



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10 1 the person, currently a simple misdemeanor.
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SENATE FILE
BY KIBBIE

(COMPANION TO HF 103
by winckler)

A BILL FOR

1 An Act relating to the duties and operations of the state
2 commission of libraries, the division of libraries and
3 information services, and the library service areas.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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PAG LIN

1 1 Section 1. Section 8A.454, subsection 2, Code 2011, is
1 2 amended to read as follows:

1 3 2. A monthly per contract administrative charge shall
1 4 be assessed by the department on all health insurance plans
1 5 administered by the department in which the contract holder
1 6 has a state employer to pay the charge. The amount of the
1 7 administrative charge shall be established by the general
1 8 assembly. The department shall collect the administrative
1 9 charge from each department utilizing the centralized payroll
1 10 system and shall deposit the proceeds in the fund. In
1 11 addition, the state board of regents, ~~all library service~~
~~1 12 areas,~~ the state fair board, the state department of
1 13 transportation, and each judicial district department of
1 14 correctional services shall remit the administrative charge on
1 15 a monthly basis to the department and shall submit a report
1 16 to the department containing the number and type of health
1 17 insurance contracts held by each of its employees whose health
1 18 insurance is administered by the department.

1 19 Sec. 2. Section 8D.2, subsection 5, paragraph a, Code 2011,
1 20 is amended to read as follows:

1 21 a. "Public agency" means a state agency, an institution
1 22 under the control of the board of regents, the judicial
1 23 branch as provided in section 8D.13, subsection 16, a school
1 24 corporation, a city library, ~~a library service area as provided~~
~~1 25 in chapter 256,~~ a county library as provided in chapter 336,
1 26 or a judicial district department of correctional services
1 27 established in section 905.2, to the extent provided in section
1 28 8D.13, subsection 14, an agency of the federal government, or a
1 29 United States post office which receives a federal grant for
1 30 pilot and demonstration projects.

1 31 Sec. 3. Section 8D.9, subsection 1, Code 2011, is amended
1 32 to read as follows:

1 33 1. A private or public agency, other than a state agency,
1 34 local school district or nonpublic school, city library,
1 35 ~~library service area,~~ county library, judicial branch, judicial



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2 1 district department of correctional services, agency of the
2 2 federal government, a hospital or physician clinic, or a
2 3 post office authorized to be offered access pursuant to this
2 4 chapter as of May 18, 1994, shall certify to the commission
2 5 no later than July 1, 1994, that the agency is a part of or
2 6 intends to become a part of the network. Upon receiving such
2 7 certification from an agency not a part of the network on May
2 8 18, 1994, the commission shall provide for the connection of
2 9 such agency as soon as practical. An agency which does not
2 10 certify to the commission that the agency is a part of or
2 11 intends to become a part of the network as required by this
2 12 subsection shall be prohibited from using the network.

2 13 Sec. 4. Section 8D.11, subsection 4, Code 2011, is amended
2 14 to read as follows:

2 15 4. A political subdivision receiving communications
2 16 services from the state as of April 1, 1986, may continue to
2 17 do so but communications services shall not be provided or
2 18 resold to additional political subdivisions other than a school
2 19 corporation, a city library, ~~a library service area as provided~~
~~2 20 in chapter 256,~~ and a county library as provided in chapter
2 21 336. The rates charged to the political subdivision shall be
2 22 the same as the rates charged to state agencies.

2 23 Sec. 5. Section 12C.1, subsection 1, Code 2011, is amended
2 24 to read as follows:

2 25 1. All funds held by the following officers or institutions
2 26 shall be deposited in one or more depositories first approved
2 27 by the appropriate governing body as indicated: for the
2 28 treasurer of state, by the executive council; for judicial
2 29 officers and court employees, by the supreme court; for the
2 30 county treasurer, recorder, auditor, and sheriff, by the board
2 31 of supervisors; for the city treasurer or other designated
2 32 financial officer of a city, by the city council; for the
2 33 county public hospital or merged area hospital, by the board
2 34 of hospital trustees; for a memorial hospital, by the memorial
2 35 hospital commission; for a school corporation, by the board



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3 1 of school directors; for a city utility or combined utility
3 2 system established under chapter 388, by the utility board;
3 3 ~~for a library service area established under chapter 256,~~
3 4 ~~by the library service area board of trustees,~~ and for an
3 5 electric power agency as defined in section 28F.2 or 390.9,
3 6 by the governing body of the electric power agency. However,
3 7 the treasurer of state and the treasurer of each political
3 8 subdivision or the designated financial officer of a city shall
3 9 invest all funds not needed for current operating expenses in
3 10 time certificates of deposit in approved depositories pursuant
3 11 to this chapter or in investments permitted by section 12B.10.
3 12 The list of public depositories and the amounts severally
3 13 deposited in the depositories are matters of public record.
3 14 This subsection does not limit the definition of "public funds"
3 15 contained in subsection 2. Notwithstanding provisions of this
3 16 section to the contrary, public funds of a state government
3 17 deferred compensation plan established by the executive council
3 18 may also be invested in the investment products authorized
3 19 under section 509A.12.
3 20 Sec. 6. Section 218.22, Code 2011, is amended to read as
3 21 follows:
3 22 218.22 Record privileged.
3 23 Except with the consent of the administrator in charge
3 24 of an institution, or on an order of a court of record, the
3 25 record provided in section 218.21 shall be accessible only
3 26 to the administrator of the division of the department of
3 27 human services in control of such institution, the director
3 28 of the department of human services and to assistants and
3 29 proper clerks authorized by such administrator or the
3 30 administrator's director. The administrator of the division
3 31 of such institution is authorized to permit the division of
3 32 ~~libraries and information~~ library services of the department
3 33 of education and the historical division of the department of
3 34 cultural affairs to copy or reproduce by any photographic,
3 35 photostatic, microfilm, microcard or other process which



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4 1 accurately reproduces a durable medium for reproducing the
4 2 original and to destroy in the manner described by law such
4 3 records of residents designated in section 218.21.

4 4 Sec. 7. Section 256.7, unnumbered paragraph 1, Code 2011,
4 5 is amended to read as follows:

4 6 Except for the college student aid commission, the
4 7 commission of libraries and division of library services, and
4 8 the public broadcasting board and division, the state board
4 9 shall:

4 10 Sec. 8. Section 256.7, subsection 17, Code 2011, is amended
4 11 to read as follows:

4 12 17. Receive and review the budget and unified plan of
4 13 service submitted by the division of ~~libraries and information~~
4 14 library services.

4 15 Sec. 9. Section 256.9, unnumbered paragraph 1, Code 2011,
4 16 is amended to read as follows:

4 17 Except for the college student aid commission, the
4 18 commission of libraries and division of library services, and
4 19 the public broadcasting board and division, the director shall:

4 20 Sec. 10. Section 256.50, subsection 2, Code 2011, is amended
4 21 to read as follows:

4 22 2. "Division" means the division of ~~libraries and~~
4 23 ~~information~~ library services of the department of education.

4 24 Sec. 11. Section 256.51, subsection 1, unnumbered paragraph
4 25 1, Code 2011, is amended to read as follows:

4 26 The division of ~~libraries and information~~ library services
4 27 is established within attached to the department of education
4 28 for administrative purposes. The state librarian shall be
4 29 responsible for the division's budgeting and related management
4 30 functions in accordance section 256.52, subsection 3. The

4 31 division shall do all of the following:

4 32 Sec. 12. Section 256.51, subsection 1, Code 2011, is amended
4 33 by adding the following new paragraph:

4 34 NEW PARAGRAPH. 0a. Provide support services to libraries,
4 35 including but not limited to consulting, continuing education,



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5 1 interlibrary loan services, and references services to assure
5 2 consistency of service statewide and to encourage local
5 3 financial support for library services.

5 4 Sec. 13. Section 256.51, subsection 1, paragraph d, Code
5 5 2011, is amended to read as follows:

5 6 d. Develop, in consultation with the ~~library service areas~~
5 7 ~~and the area education agency media centers,~~ a biennial unified
5 8 plan of service and service delivery for the division of
5 9 ~~libraries and information~~ library services.

5 10 Sec. 14. Section 256.51, subsection 1, paragraph j, Code
5 11 2011, is amended to read as follows:

5 12 j. Establish and administer standards for state agency
5 13 ~~libraries, the library service areas,~~ and public libraries.

5 14 Sec. 15. Section 256.51, subsection 1, paragraph k, Code
5 15 2011, is amended by striking the paragraph.

5 16 Sec. 16. Section 256.51, subsection 2, paragraph c, Code
5 17 2011, is amended to read as follows:

5 18 c. Accept gifts, contributions, bequests, endowments,
5 19 or other moneys, including but not limited to the Westgate
5 20 endowment fund, for any or all purposes of the division.

5 21 Interest earned on moneys accepted under this paragraph
5 22 shall be credited to the fund or funds to which the gifts,
5 23 contributions, bequests, endowments, or other moneys have been
5 24 deposited, and is available for any or all purposes of the
5 25 division. The division shall report annually to the ~~director~~
5 26 ~~commission~~ and the general assembly regarding the gifts,
5 27 contributions, bequests, endowments, or other moneys accepted
5 28 pursuant to this paragraph and the interest earned on them.

5 29 Sec. 17. Section 256.52, subsection 1, Code 2011, is amended
5 30 to read as follows:

5 31 1. a. The state commission of libraries consists of one
5 32 member appointed by the supreme court, the director of the
5 33 department of education, or the director's designee, and ~~six~~
5 34 ~~the following seven members who shall be appointed by the~~
5 35 governor to serve four-year terms beginning and ending as



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6 1 provided in section 69.19. ~~The governor's appointees shall~~

6 2 (1) Two members shall be employed in the state as public
6 3 librarians.

6 4 (2) One member shall be a public library trustee.

6 5 (3) One member shall be employed in this state as an
6 6 academic librarian.

6 7 (4) One member shall be employed as a librarian by a school
6 8 district or area education agency.

6 9 (5) Two members shall be selected at large.

6 10 b. The members shall be reimbursed for their actual
6 11 expenditures necessitated by their official duties. Members
6 12 may also be eligible for compensation as provided in section
6 13 7E.6.

6 14 Sec. 18. Section 256.52, subsection 3, paragraph b,
6 15 subparagraphs (1) and (4), Code 2011, are amended to read as
6 16 follows:

6 17 (1) ~~Direct and organize the activities of~~ Organize, staff,
6 18 and administer the division so as to render the greatest
6 19 benefit to libraries in the state.

6 20 (4) Appoint and approve the technical, professional,
6 21 ~~excepting the law librarian,~~ secretarial, and clerical staff
6 22 necessary to accomplish the purposes of the division subject
6 23 to chapter 8A, subchapter IV.

6 24 Sec. 19. Section 256.52, subsection 3, paragraph b, Code
6 25 2011, is amended by adding the following new subparagraph:

6 26 NEW SUBPARAGRAPH. (4A) (a) Assume all of the outstanding
6 27 obligations of the library service areas and be liable for
6 28 and recognize, assume, and carry out all valid contracts and
6 29 obligations of the library service areas that are consolidated
6 30 under the commission and administered by the division effective
6 31 beginning July 1, 2011. Each library service area shall
6 32 transfer, prior to July 1, 2011, its state=funded assets and
6 33 title to any state=funded real estate owned by the library
6 34 service area to the state librarian.

6 35 (b) This subparagraph is repealed July 1, 2015.



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7 1 Sec. 20. Section 256.52, subsection 5, Code 2011, is amended
7 2 to read as follows:

7 3 5. The commission shall receive and approve the budget and
7 4 unified plan of service submitted by the division ~~of libraries~~
~~7 5 and information services.~~

7 6 Sec. 21. Section 256.54, subsection 1, Code 2011, is amended
7 7 to read as follows:

7 8 1. The state library includes but is not limited to ~~a law~~
~~7 9 library~~ the library support network, the specialized library
7 10 services unit, and the state data center. The law library
7 11 shall be under the direction of the specialized library
7 12 services unit.

7 13 Sec. 22. Section 256.54, subsection 2, unnumbered paragraph
7 14 1, Code 2011, is amended to read as follows:

7 15 The law library shall be administered by a law librarian
7 16 appointed by the ~~director~~ state librarian subject to chapter
7 17 8A, subchapter IV, who shall do all of the following:

7 18 Sec. 23. Section 256.55, unnumbered paragraph 1, Code 2011,
7 19 is amended to read as follows:

7 20 A state data center is established in the ~~department~~
~~7 21 of education~~ division. The state data center shall be
7 22 administered by the state data center coordinator, who shall
7 23 do all of the following:

7 24 Sec. 24. NEW SECTION. 256.58 Library support network.

7 25 1. A library support network is established in the division
7 26 to offer services and programs for libraries, including but not
7 27 limited to individualized, locally delivered consulting and
7 28 training, and to facilitate resource sharing and innovation
7 29 through the use of technology, administer enrich Iowa programs,
7 30 advocate for libraries, promote excellence and innovation
7 31 in library services, encourage governmental subdivisions to
7 32 provide local financial support for local libraries, and ensure
7 33 the consistent availability of quality service to all libraries
7 34 throughout the state, regardless of location or size.

7 35 2. The organizational structure to deliver library support



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8 1 network services shall include district offices. The district
8 2 offices shall serve as a basis for providing field services
8 3 to local libraries in the counties comprising the district.
8 4 The division shall determine which counties are served by each
8 5 district office.

8 6 Sec. 25. NEW SECTION. 256.59 Specialized library services.
8 7 The specialized library services unit is established in the
8 8 division to provide information services to the three branches
8 9 of state government and to offer focused information services
8 10 to the general public in the areas of Iowa law, Iowa state
8 11 documents, and Iowa history and culture.

8 12 Sec. 26. NEW SECTION. 256.62 Library services advisory
8 13 panel.

8 14 1. The state librarian shall convene a library services
8 15 advisory panel to advise and recommend to the commission and
8 16 the division evidence-based best practices, to assist the
8 17 commission and division to determine service priorities and
8 18 launch programs, articulate the needs and interests of Iowa
8 19 librarians, and share research and professional development
8 20 information.

8 21 2. The library services advisory panel shall consist of no
8 22 fewer than eleven members representing libraries of all sizes
8 23 and types, and various population levels and geographic regions
8 24 of the state. A simple majority of the members appointed
8 25 shall be appointed by the executive board of the Iowa library
8 26 association and the remaining members shall be appointed by
8 27 the state librarian. Terms of members shall begin and end
8 28 as provided in section 69.19. Any vacancy shall be filled
8 29 in the same manner as regular appointments are made for the
8 30 unexpired portion of the regular term. Members shall serve
8 31 four-year terms which are staggered at the discretion of the
8 32 state librarian. A member is eligible for reappointment for
8 33 three successive terms. The members shall elect a chairperson
8 34 annually.

8 35 3. The library services advisory panel shall meet at least



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9 1 twice annually and shall submit its recommendations in a
9 2 report to the commission and the state librarian at least once
9 3 annually. The report shall be timely submitted to allow for
9 4 consideration of the recommendations prior to program planning
9 5 and budgeting for the following fiscal year.
9 6 4. Members of the library services advisory panel shall
9 7 receive actual and necessary expenses incurred in the
9 8 performance of their duties. Expenses shall be paid from funds
9 9 appropriated to the department for purposes of the division.
9 10 Sec. 27. Section 256.70, unnumbered paragraph 1, Code 2011,
9 11 is amended to read as follows:
9 12 The division of ~~libraries and information~~ library services
9 13 of the department of education is hereby authorized to enter
9 14 into interstate library compacts on behalf of the state of Iowa
9 15 with any state bordering on Iowa which legally joins therein
9 16 in substantially the following form and the contracting states
9 17 agree that:
9 18 Sec. 28. Section 256.71, Code 2011, is amended to read as
9 19 follows:
9 20 256.71 Administrator.
9 21 The administrator of the division of ~~libraries and~~
9 22 ~~information~~ library services shall be the compact
9 23 administrator. The compact administrator shall receive copies
9 24 of all agreements entered into by the state or its political
9 25 subdivisions and other states or political subdivisions;
9 26 consult with, advise and aid such governmental units in the
9 27 formulation of such agreements; make such recommendations to
9 28 the governor, legislature, governmental agencies and units as
9 29 the administrator deems desirable to effectuate the purposes
9 30 of this compact and consult and ~~co-operate~~ cooperate with the
9 31 compact administrators of other party states.
9 32 Sec. 29. Section 273.2, subsection 4, Code 2011, is amended
9 33 to read as follows:
9 34 4. The area education agency board shall provide for special
9 35 education services and media services for the local school



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10 1 districts in the area and shall encourage and assist school
10 2 districts in the area to establish programs for gifted and
10 3 talented children. The board shall assist in facilitating
10 4 interlibrary loans of materials between school districts and
10 5 other libraries. ~~Each area education agency shall include~~
~~10 6 as a member of its media center advisory committee a library~~
~~10 7 service area trustee or library service area staff member, who~~
~~10 8 is appointed to the committee by the commission of libraries.~~
10 9 Sec. 30. Section 669.2, subsection 5, Code 2011, is amended
10 10 to read as follows:
10 11 5. "State agency" includes all executive departments,
10 12 agencies, boards, bureaus, and commissions of the state of
10 13 Iowa, and corporations whose primary function is to act as, and
10 14 while acting as, instrumentalities or agencies of the state of
10 15 Iowa, whether or not authorized to sue and be sued in their
10 16 own names. This definition does not include a contractor with
10 17 the state of Iowa. Soil and water conservation districts
10 18 as defined in section 161A.3, subsection 6, and judicial
10 19 district departments of correctional services as established in
10 20 section 905.2, ~~and library service area boards of trustees as~~
~~10 21 established in chapter 256~~ are state agencies for purposes of
10 22 this chapter.
10 23 Sec. 31. Section 904.601, unnumbered paragraph 1, Code
10 24 2011, is amended to read as follows:
10 25 The director shall keep the following record of every person
10 26 committed to any of the department's institutions: Name,
10 27 residence, sex, age, place of birth, occupation, civil
10 28 condition, date of entrance or commitment, date of discharge,
10 29 whether a discharge is final, condition of the person when
10 30 discharged, the name of the institutions from which and to
10 31 which the person has been transferred, and if the person is
10 32 dead, the date and cause of death. The director may permit
10 33 the division of ~~libraries and information~~ library services of
10 34 the department of education and the historical division of
10 35 the department of cultural affairs to copy or reproduce by



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11 1 any photographic, photostatic, microfilm, microcard, or other
11 2 process which accurately reproduces in a durable medium and to
11 3 destroy in the manner described by law the records of inmates
11 4 required by this paragraph.

11 5 Sec. 32. REPEAL. Sections 256.60, 256.61, 256.66 through
11 6 256.68, Code 2011, are repealed.

11 7 Sec. 33. TRANSITION PROVISION. A governor's appointee
11 8 serving on the state commission of libraries on the effective
11 9 date of this Act shall continue to serve as a member of the
11 10 commission until the appointee's term expires.

11 11 Sec. 34. LIBRARY SERVICE AREA EMPLOYEES ==== LENGTH OF SERVICE
11 12 ==== TRANSFER OF PERSONNEL RECORDS.

11 13 1. The length of service of a permanent employee of a
11 14 library service area who is employed by a library service area
11 15 on June 30, 2011, and who is hired by the division of library
11 16 services on or after July 1, 2011, shall be prorated and
11 17 credited as state employment service for purposes of vacation
11 18 and sick leave accrual.

11 19 2. The area administrator of each library service area
11 20 shall submit to the division of library services the personnel
11 21 records of each permanent full-time employee of the library
11 22 service area by July 1, 2011.

11 23 EXPLANATION

11 24 This bill changes the name of the division of libraries and
11 25 information services within the department of education to the
11 26 division of library services, establishes that the division is
11 27 attached to the department for administrative purposes only,
11 28 establishes within the division a library support network and
11 29 a specialized library services unit, expands the membership
11 30 of the commission of libraries, directs the state librarian
11 31 to convene a library services advisory panel, and eliminates
11 32 the library service areas effective July 1, 2011, transfers
11 33 their duties to the division, and directs the state librarian
11 34 to assume all of the outstanding obligations of the library
11 35 service areas.



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12 1 The state librarian is made responsible for the division's
12 2 budgeting and related management functions, and is directed to
12 3 organize, staff, and administer the division so as to render
12 4 the greatest benefit to libraries in the state.
12 5 Each library service area is directed to transfer, prior
12 6 to July 1, 2011, its state=funded assets and title to any
12 7 state=funded real estate owned by the library service area to
12 8 the state librarian, who currently controls all property of the
12 9 division.
12 10 The division is directed to provide support services to
12 11 libraries, including but not limited to consulting, continuing
12 12 education, and interlibrary loan and references services to
12 13 assure consistency of service statewide and to encourage local
12 14 financial support for library services.
12 15 The commission of libraries membership is increased by one
12 16 member. Currently, members are appointed by the governor
12 17 and are appointed on an at=large basis. Under the bill, the
12 18 members include public librarians, a public library trustee,
12 19 an academic librarian, a school district or area education
12 20 agency librarian, and two members appointed on an at=large
12 21 basis. A governor's appointee serving on the state commission
12 22 of libraries on the effective date of the bill shall continue
12 23 to serve as a member of the commission until the appointee's
12 24 term expires.
12 25 The bill provides that the law librarian be appointed by the
12 26 state librarian, rather than the director of the department of
12 27 education.
12 28 A library support network is established in the division
12 29 to offer services and programs for libraries, including
12 30 individualized, locally delivered consulting services and
12 31 training, and to facilitate resource sharing and innovation
12 32 through the use of technology, administer enrich Iowa programs,
12 33 advocate for libraries throughout the state, provide support
12 34 for information technology, seek and offer opportunities
12 35 to libraries throughout the state, promote excellence and



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13 1 innovation in library services, encourage governmental
13 2 subdivisions to provide local financial support for local
13 3 libraries, and ensure the consistent availability of quality
13 4 service to all libraries throughout the state, regardless of
13 5 location or size.
13 6 The specialized library services unit is established in the
13 7 division to provide information services to the three branches
13 8 of state government and to offer focused information services
13 9 to the general public in the areas of Iowa law, Iowa state
13 10 documents, and Iowa history and culture.
13 11 The library services advisory panel is tasked with
13 12 advising and recommending to the commission and the division
13 13 evidence-based best practices, assisting the commission and
13 14 division to determine service priorities and launch programs,
13 15 articulating the needs and interests of Iowa librarians, and
13 16 sharing research and professional development information.
13 17 The library services advisory panel consists of at least 11
13 18 members representing libraries of all sizes and types, and
13 19 various population levels and geographic regions of the state.
13 20 A simple majority of the members shall be appointed by the
13 21 executive board of the Iowa library association, with the state
13 22 librarian appointing the remaining members. Members shall
13 23 serve four-year terms which are staggered at the discretion of
13 24 the state librarian. A member is eligible for reappointment
13 25 for three successive terms. The members shall elect a
13 26 chairperson annually. Members of the library services advisory
13 27 panel shall receive actual and necessary expenses incurred in
13 28 the performance of their duties. Expenses are paid from funds
13 29 appropriated to the department for purposes of the division.
13 30 The library services advisory panel shall meet at least
13 31 twice annually and shall submit its recommendations in a
13 32 report to the commission and the state librarian at least once
13 33 annually in time to allow for consideration prior to program
13 34 planning and budgeting for the following fiscal year.
13 35 The length of service of a permanent full-time employee of a



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14 1 library service area who is employed by a library service area
14 2 on June 30, 2011, and who is hired by the division on or after
14 3 July 1, 2011, shall be credited as state employment service
14 4 for purposes of vacation and sick leave accrual. The area
14 5 administrator of each library service area shall submit to the
14 6 division of libraries and information services the personnel
14 7 records of each permanent full-time employee of the library
14 8 service area by July 1, 2011.

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Senate File 164 - Introduced

SENATE FILE
BY KIBBIE and HOUSER

A BILL FOR

1 An Act relating to motor fuel by providing for a biodiesel
2 quality standard and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TL5B 2150XS (7) 84
da/rj



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Senate File 164 - Introduced continued

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1 1 Section 1. Section 214A.2, subsection 4, paragraph b,
1 2 subparagraph (2), Code 2011, is amended by striking the
1 3 subparagraph.
1 4 Sec. 2. NEW SECTION. 214A.2C Standard for diesel fuel ====
1 5 biodiesel required.
1 6 1. A retail dealer shall not advertise for sale or sell
1 7 diesel fuel in this state, unless it is biodiesel fuel
1 8 designated as B=5 or higher as specified in section 214A.2.
1 9 2. Subsection 1 does not apply to diesel fuel used to power
1 10 any of the following:
1 11 a. (1) A motor located at an electric generating plant
1 12 regulated by the United States nuclear regulatory commission.
1 13 (2) This paragraph "a" is repealed thirty days after the
1 14 United States nuclear regulatory commission approves the use of
1 15 biodiesel fuel designated as B=5 or higher in motors located at
1 16 electric generating plants that it regulates.
1 17 b. A railroad locomotive.
1 18 c. A vehicle used primarily on the grounds of a public
1 19 airport.
1 20 d. A motor used to temporarily generate power due to
1 21 peak demand for electricity or a disruption in the delivery
1 22 of electricity or natural gas until the delivery of the
1 23 electricity or natural gas may be resumed.
1 24 3. Subsection 1 does not apply during a period that the
1 25 governor issues a biodiesel suspension order.
1 26 a. The biodiesel suspension order must include a
1 27 determination by the governor that any of the following exists:
1 28 (1) A lack of infrastructure in this state necessary to
1 29 support the retail sale of biodiesel fuel designated as B=5.
1 30 (2) A significant shortage of biodiesel fuel designated as
1 31 B=5 in this state available for retail sale in this state.
1 32 (3) A systemic market change in the supplies or prices of
1 33 biodiesel fuel designated B=5 will cause a material economic
1 34 hardship to the state.
1 35 b. The biodiesel suspension order may reduce the biodiesel



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2 1 fuel designation provided in subsection 1 during the period of
2 2 the suspension. The biodiesel suspension order may apply to
2 3 the entire state or to specific counties named in the biodiesel
2 4 suspension order.

2 5 c. The biodiesel suspension order shall take effect
2 6 when published in the Iowa administrative bulletin unless
2 7 the biodiesel suspension order specifies a later date. The
2 8 biodiesel suspension order shall terminate on a date certain as
2 9 specified in the biodiesel suspension order.

2 10 Sec. 3. EXISTING INVENTORIES OF DIESEL FUEL.

2 11 1. a. Notwithstanding section 214A.2C, diesel fuel
2 12 inventories, stored at a retail motor fuel site as defined in
2 13 section 214A.1, existing on the effective date of this Act, may
2 14 continue to be sold and dispensed.

2 15 b. Paragraph "a" shall not apply once all diesel fuel
2 16 inventories existing at a retail motor fuel site as defined in
2 17 section 214A.1, on the effective date of this Act, have been
2 18 sold or dispensed.

2 19 2. Nothing in this section authorizes a retail dealer to
2 20 acquire diesel fuel other than biodiesel fuel designated B=5 or
2 21 higher as provided in section 214A.2 on or after the effective
2 22 date of this Act.

2 23 Sec. 4. RULES. The department of agriculture and land
2 24 stewardship shall adopt rules, to be effective September 1,
2 25 2012, as necessary to implement this Act.

2 26 Sec. 5. EFFECTIVE DATE. This Act takes effect September
2 27 1, 2012, except for the provisions authorizing the department
2 28 of agriculture and land stewardship to adopt rules required to
2 29 implement the provisions of section 214A.2C, as enacted in this
2 30 Act.

2 31 EXPLANATION

2 32 This bill applies to the retail sale of biodiesel blended
2 33 fuel as regulated by the department of agriculture and land
2 34 stewardship under Code chapter 214A.

2 35 The bill prohibits a retail dealer from advertising the



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3 1 sale or selling of diesel fuel unless it is biodiesel fuel
3 2 and requires that all diesel fuel contain a minimum of 5
3 3 rather than 1 percent biodiesel. The bill provides for a
3 4 number of exceptions, including for motors located at an
3 5 electric generating plant regulated by the nuclear regulatory
3 6 commission, locomotives, vehicles used primarily on the grounds
3 7 of a public airport, and motors used to temporarily generate
3 8 electricity.

3 9 The bill allows the governor to issue a biodiesel suspension
3 10 order based on a determination that there is not sufficient
3 11 infrastructure in the state, there is a shortage of biodiesel
3 12 fuel, or the standard will cause a material economic hardship
3 13 to the state.

3 14 The bill allows a retail dealer to sell remaining
3 15 inventories of diesel fuel.

3 16 The bill takes effect September 1, 2012, except for the
3 17 provision requiring the department of agriculture and land
3 18 stewardship to adopt rules which would take effect July 1.

3 19 A person who violates a provision of Code chapter 214A is
3 20 guilty of a serious misdemeanor with each day of a continuing
3 21 violation consisting of a separate offense. The state may
3 22 also proceed against a person who violates the Code chapter
3 23 by bringing a civil enforcement action as a contested case
3 24 proceeding under Code chapter 17A in lieu of a prosecution. A
3 25 serious misdemeanor is punishable by confinement for no more
3 26 than one year and a fine of at least \$315 but not more than
3 27 \$1,875. The civil penalty shall be for at least \$100 but not
3 28 more than one \$1,000 for each violation.

LSB 2150XS (7) 84

da/rj



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Senate File 165 - Introduced

SENATE FILE
BY HANCOCK

A BILL FOR

1 An Act relating to scheduled violations that require a court
2 appearance.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2171SS (3) 84
jm/nh



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1 1 Section 1. Section 805.10, Code 2011, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 3. a. In cases requiring a court
1 4 appearance pursuant to subsection 1, if a peace officer fails
1 5 to endorse "court appearance required" on an information or
1 6 uniform citation and complaint, and the defendant admits to the
1 7 violation under the procedures established in section 805.9
1 8 without a court appearance as required by this section, the
1 9 conviction shall be set aside as a matter of law if the county
1 10 attorney files an objection to the conviction within sixty days
1 11 of the conviction.
1 12 b. If the conviction is set aside, the defendant shall
1 13 appear before the court and regular procedures shall apply as
1 14 in other scheduled violation cases requiring a court appearance
1 15 under this section.
1 16 c. Any fine, court costs, surcharge, or other penalties
1 17 previously paid by the defendant, including an unsecured
1 18 appearance bond, may be refunded to the defendant or upon
1 19 conviction applied to the newly assessed fine, court costs,
1 20 surcharge, or other penalty.
1 21 Sec. 2. Section 811.9, Code 2011, is amended to read as
1 22 follows:
1 23 811.9 Forfeiture of appearance bond and conditions to set
1 24 aside.
1 25 Sections 811.6 through 811.8 shall not apply in a case where
1 26 a simple misdemeanor is charged upon a uniform citation and
1 27 complaint and where the defendant has submitted an unsecured
1 28 appearance bond or has submitted bail in the form of cash,
1 29 check, credit card as provided in section 805.14, or guaranteed
1 30 arrest bond certificate as defined in section 321.1. When a
1 31 defendant fails to appear as required in such cases, the court,
1 32 or the clerk of the district court, shall enter a judgment of
1 33 forfeiture of the bond or bail. The judgment shall be final
1 34 upon entry and shall not be set aside unless the conviction
1 35 is for a scheduled violation under chapter 321 that was set



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2 1 aside under the procedures established in section 321.200A,
2 2 ~~or~~ upon a showing of good cause after the filing of a motion
2 3 within ninety days of entry of the judgment, for mistake,
2 4 inadvertence, surprise, excusable neglect, or unavoidable
2 5 casualty, or if the county attorney objects pursuant to the
2 6 procedures established in section 805.10, subsection 3.

2 7 EXPLANATION

2 8 This bill relates to scheduled violations that require a
2 9 court appearance.

2 10 The bill provides that for scheduled violations requiring
2 11 a court appearance where the peace officer fails to endorse
2 12 "court appearance required" on the information or uniform
2 13 citation and complaint, and the defendant later admits to the
2 14 violation without a court appearance under the procedures
2 15 established in Code section 805.9, the conviction shall be
2 16 set aside as a matter of law if the county attorney files an
2 17 objection to the conviction within 60 days of the conviction.

2 18 If a conviction is set aside under the bill, the defendant
2 19 shall appear before the court and regular procedures shall
2 20 apply as in other scheduled violation cases that require a
2 21 court appearance under Code section 805.10.

2 22 The bill provides that any fine, court costs, surcharge, or
2 23 other penalty previously paid by the defendant, including an
2 24 unsecured appearance bond, may be refunded to the defendant or
2 25 upon subsequent conviction applied to the newly assessed fine,
2 26 court costs, surcharge, or other penalty.

LSB 2171SS (3) 84

jm/nh



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Senate File 166 - Introduced

SENATE FILE
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB
1076)

A BILL FOR

1 An Act establishing the categorical state percent of growth
2 for purposes of the state school foundation program and
3 including effective date and applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2063SV (1) 84
md/sc



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Senate File 166 - Introduced continued

PAG LIN

1 1 Section 1. Section 257.8, subsection 2, Code 2011, is
1 2 amended to read as follows:

1 3 2. Categorical state percent of growth. The categorical
1 4 state percent of growth for the budget year beginning July 1,
1 5 2010, is two percent. The categorical state percent of growth
1 6 for the budget year beginning July 1, 2011, is two percent.

1 7 The categorical state percent of growth for each budget year
1 8 shall be established by statute which shall be enacted within
1 9 thirty days of the submission in the year preceding the
1 10 base year of the governor's budget under section 8.21. The
1 11 establishment of the categorical state percent of growth for a
1 12 budget year shall be the only subject matter of the bill which
1 13 enacts the categorical state percent of growth for a budget
1 14 year. The categorical state percent of growth may include
1 15 state percents of growth for the teacher salary supplement, the
1 16 professional development supplement, and the early intervention
1 17 supplement.

1 18 Sec. 2. EFFECTIVE UPON ENACTMENT AND APPLICABILITY. This
1 19 Act, being deemed of immediate importance, takes effect upon
1 20 enactment and is applicable for computing state aid under the
1 21 state school foundation program for the school budget year
1 22 beginning July 1, 2011.

1 23 EXPLANATION

1 24 This bill establishes a categorical state percent of growth
1 25 of 2 percent for purposes of the state school foundation
1 26 program for the school budget year beginning July 1, 2011.
1 27 The categorical state percent of growth includes the teacher
1 28 salary supplement, the professional development supplement,
1 29 and the early intervention supplement. The bill takes effect
1 30 upon enactment and is applicable for computing state aid under
1 31 the state school foundation program for the school budget year
1 32 beginning July 1, 2011.

LSB 2063SV (1) 84
md/sc



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Senate File 167 - Introduced

SENATE FILE
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB
1075)

A BILL FOR

1 An Act establishing the state percent of growth for purposes of
2 the state school foundation program and including effective
3 date and applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2064SV (1) 84
md/sc



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Senate File 167 - Introduced continued

PAG LIN

1 1 Section 1. Section 257.8, subsection 1, Code 2011, is
1 2 amended to read as follows:
1 3 1. State percent of growth. ~~The state percent of growth~~
~~1 4 for the budget year beginning July 1, 2009, is four percent.~~
1 5 The state percent of growth for the budget year beginning July
1 6 1, 2010, is two percent. The state percent of growth for the
1 7 budget year beginning July 1, 2011, is two percent. The state
1 8 percent of growth for each subsequent budget year shall be
1 9 established by statute which shall be enacted within thirty
1 10 days of the submission in the year preceding the base year of
1 11 the governor's budget under section 8.21. The establishment of
1 12 the state percent of growth for a budget year shall be the only
1 13 subject matter of the bill which enacts the state percent of
1 14 growth for a budget year.

1 15 Sec. 2. EFFECTIVE UPON ENACTMENT AND APPLICABILITY. This
1 16 Act, being deemed of immediate importance, takes effect upon
1 17 enactment and is applicable for computing state aid under the
1 18 state school foundation program for the school budget year
1 19 beginning July 1, 2011.

1 20 EXPLANATION

1 21 This bill establishes a state percent of growth of 2
1 22 percent for purposes of the state school foundation program
1 23 for the school budget year beginning July 1, 2011. The bill
1 24 takes effect upon enactment and is applicable for state aid
1 25 computation under the state school foundation program for the
1 26 school budget year beginning July 1, 2011.

LSB 2064SV (1) 84

md/sc



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Senate Joint Resolution 12 - Introduced

SENATE JOINT RESOLUTION
BY DIX, KETTERING,
JOHNSON, SORENSON,
WARD, HOUSER, SEYMOUR,
BEHN, MCKINLEY,
BOETTGER, BACON,
SMITH, GREINER,
KAPUCIAN, FEENSTRA,
HAHN, ANDERSON,
BERTRAND, HAMERLINCK,
and ERNST

SENATE JOINT RESOLUTION

1 A Joint Resolution proposing an amendment to the Constitution
2 of the State of Iowa providing for a general state revenue
3 expenditure limitation.
4 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2074XS (3) 84
jp/sc



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Senate Joint Resolution 12 - Introduced continued

PAG LIN

1 1 Section 1. The following amendment to the Constitution of
1 2 the State of Iowa is proposed:
1 3 The Constitution of the State of Iowa is amended by adding
1 4 the following new section to new Article XIII:
1 5 ARTICLE XIII.
1 6 EXPENDITURE LIMITATION.
1 7 General state revenue expenditure limitation.SECTION 1.
1 8 1. For the purposes of this section:
1 9 a. "Adjusted revenue estimate" means the most recent
1 10 revenue estimate determined before January 1, or a later and
1 11 lesser revenue estimate determined before adjournment of the
1 12 regular session of the general assembly, for the general
1 13 state revenue for the following fiscal year as determined by
1 14 a revenue estimating conference which shall be established by
1 15 the general assembly by law, adjusted by subtracting estimated
1 16 refunds payable from that estimated revenue and adding any
1 17 available surplus in accordance with subsection 6. However,
1 18 if the general assembly holds an extraordinary session prior
1 19 to the commencement of the fiscal year to which the revenue
1 20 estimate applies and before or during the extraordinary session
1 21 the revenue estimating conference determines a lesser revenue
1 22 estimate, the lesser estimate shall be used for the adjusted
1 23 revenue estimate.
1 24 b. "General state revenue" means taxes, fees, and other
1 25 revenues credited to the state treasury and subject to
1 26 appropriation by law. "General state revenue" does not include
1 27 any of the following:
1 28 (1) Federal funds.
1 29 (2) Motor vehicle fees and fuel taxes identified by this
1 30 constitution.
1 31 (3) Fish and wildlife protection funds identified by this
1 32 constitution.
1 33 (4) Moneys credited to the natural resources and outdoor
1 34 recreation trust fund created by this constitution.
1 35 (5) Moneys credited to the permanent fund for the state



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Senate Joint Resolution 12 - Introduced continued

2 1 university, the perpetual support fund, or other school fund
2 2 identified by this constitution.
2 3 (6) Donations.
2 4 (7) Moneys expended from a state retirement system.
2 5 (8) Any other tax, fee, revenue, or fund specifically
2 6 enumerated in or protected by this constitution.
2 7 c. "New general state revenue" means moneys which are
2 8 received by the state and credited as general state revenue due
2 9 to increased tax rates or fees or newly created taxes or fees
2 10 over and above those moneys which are received due to state
2 11 taxes or fees which are in effect as of January 1 following the
2 12 most recent meeting of the state revenue estimating conference.
2 13 "New general state revenue" also includes moneys credited as
2 14 general state revenue due to new transfers over and above those
2 15 moneys credited as general state revenue due to transfers
2 16 which are in effect as of January 1 following the most recent
2 17 meeting of the state revenue estimating conference. The state
2 18 revenue estimating conference shall determine the eligibility
2 19 of transfers of moneys to be credited as general state revenue
2 20 which are to be considered as new revenue in determining the
2 21 general state revenue expenditure limitation.
2 22 d. "Surplus" means the cumulative excess of revenues and
2 23 other financing sources over expenditures and other financing
2 24 uses for the general state revenue at the end of a fiscal year.
2 25 2. A general state revenue expenditure limitation is
2 26 created and calculated in subsection 3, for each fiscal year
2 27 beginning on or after July 1 following the effective date of
2 28 this section.
2 29 3. Except as otherwise provided in this section, the general
2 30 state revenue expenditure limitation for a fiscal year shall be
2 31 ninety=nine percent of the adjusted revenue estimate.
2 32 4. The general state revenue expenditure limitation shall
2 33 be used by the governor in the preparation and approval of the
2 34 budget and by the general assembly in the budget process.
2 35 5. If a new general state revenue source is proposed, the



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3 1 budget revenue projection used for that new general state
3 2 revenue source for the period beginning on the effective date
3 3 of the new general state revenue source and ending in the
3 4 fiscal year in which the source is included in the adjusted
3 5 revenue estimate shall be ninety=five percent of the amount
3 6 remaining after subtracting estimated refunds payable from the
3 7 projected revenue from that source. If a new general state
3 8 revenue source is established and implemented, the original
3 9 general state revenue expenditure limitation amount provided
3 10 for in subsection 3 shall be readjusted to include ninety=five
3 11 percent of the estimated revenue from that source.

3 12 6. Any surplus existing at the end of a fiscal year which
3 13 exceeds ten percent of the adjusted revenue estimate of
3 14 that fiscal year shall be included in the adjusted revenue
3 15 estimate for the following fiscal year. Any surplus equal to
3 16 ten percent or less of the adjusted revenue estimate of the
3 17 fiscal year may be included in the adjusted revenue estimate
3 18 for the following fiscal year if approved in a bill receiving
3 19 the affirmative votes of at least three=fifths of the members
3 20 elected to each house of the general assembly.

3 21 7. The scope of the general state revenue expenditure
3 22 limitation under subsection 3 shall include any portion of an
3 23 appropriation subject to a general state revenue expenditure
3 24 limitation for a previous fiscal year that remains authorized
3 25 for expenditure in the fiscal year to which the expenditure
3 26 limitation under subsection 3 is applicable.

3 27 8. The governor shall submit and the general assembly shall
3 28 pass a budget which does not exceed the general state revenue
3 29 expenditure limitation. The governor shall not approve or
3 30 disapprove appropriation bills or items of appropriation bills
3 31 passed by the general assembly in a manner that would cause the
3 32 final budget approved by the governor to exceed the general
3 33 state revenue expenditure limitation.

3 34 9. The governor shall not submit and the general assembly
3 35 shall not pass a budget for general state revenue which in



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Senate Joint Resolution 12 - Introduced continued

4 1 order to balance assumes reversion of any part of the total of
4 2 the appropriations included in the budget.
4 3 10. The state shall use consistent standards, in accordance
4 4 with generally accepted accounting principles, for all state
4 5 budgeting and accounting purposes.

4 6 11. The general assembly shall enact laws to implement this
4 7 section.

4 8 Sec. 2. REFERRAL AND PUBLICATION. The foregoing proposed
4 9 amendment to the Constitution of the State of Iowa is referred
4 10 to the general assembly to be chosen at the next general
4 11 election for members of the general assembly, and the secretary
4 12 of state is directed to cause it to be published for three
4 13 consecutive months previous to the date of that election as
4 14 provided by law.

4 15 EXPLANATION

4 16 This joint resolution proposes an amendment to the
4 17 Constitution of the State of Iowa relating to state budgets.

4 18 The amendment provides for a general state revenue
4 19 expenditure limitation. The amount of the limitation is 99
4 20 percent of the adjusted revenue estimate. The amendment
4 21 defines adjusted revenue estimate and requires that that
4 22 estimate be determined by a revenue estimating conference
4 23 which is to be created by the general assembly by law. The
4 24 amendment requires that the expenditure limitation be used by
4 25 the governor in preparation of the governor's budget and by
4 26 the general assembly in the budget process. The governor is
4 27 prohibited from approving or disapproving of appropriations
4 28 in a manner that would cause the final budget approved by the
4 29 governor to exceed the expenditure limitation.

4 30 The amendment also provides that, if a new general state
4 31 revenue source is established and implemented, 95 percent of
4 32 the estimate of that new revenue shall be included in the
4 33 expenditure limitation.

4 34 The amendment also requires that the amount of any surplus
4 35 which exceeds an amount equal to 10 percent of the adjusted



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5 1 revenue estimate be included in the adjusted revenue estimate
5 2 for the following fiscal year. Any surplus which is equal
5 3 to 10 percent or less of the amount of the adjusted revenue
5 4 estimate may be included in the following year's adjusted
5 5 revenue estimate if inclusion is approved in a bill by
5 6 three-fifths of the members elected to each house of the
5 7 general assembly.
5 8 The scope of the expenditure limitation encompasses
5 9 any portion of an appropriation previously subject to an
5 10 expenditure limitation which remains authorized for expenditure
5 11 in the fiscal year to which the expenditure limitation being
5 12 addressed applies.
5 13 The amendment also requires the state to use generally
5 14 accepted accounting principles for state budgeting and
5 15 accounting purposes. The amendment provides that the general
5 16 assembly shall enact laws to implement the amendment.
5 17 The resolution, if adopted, will be referred to the next
5 18 general assembly. If the next general assembly adopts the
5 19 resolution, the amendment will be submitted to the voters for
5 20 ratification.

LSB 2074XS (3) 84

jp/sc



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Senate Joint Resolution 13 - Introduced

SENATE JOINT RESOLUTION
BY SORENSON

SENATE JOINT RESOLUTION

1 A Joint Resolution proposing an amendment to the Constitution
2 of the State of Iowa requiring supreme court justices to be
3 elected.
4 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1513SS (5) 84
jm/rj



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Senate Joint Resolution 13 - Introduced continued

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1 1 Section 1. The following amendment to the Constitution of
1 2 the State of Iowa is proposed:

1 3 1. Section 2 of Article V of the Constitution of the State
1 4 of Iowa is amended beginning July 1, 2015, to read as follows:

1 5 Supreme court.SEC. 2. The general assembly shall provide,
1 6 by law, for the statewide election of supreme court judges
1 7 at the time of the judicial election. Except as provided in
1 8 section 10 of this article, the supreme court shall consist of
1 9 three judges, two of whom shall constitute a quorum to hold
1 10 court, and whose term of office shall be six years or until a
1 11 successor is elected and qualifies.

1 12 2. Section 15 of Article V of the Constitution of the
1 13 State of Iowa, as added by the Amendment of 1962, is amended
1 14 beginning July 1, 2015, to read as follows:

1 15 Vacancies in courts.SEC. 15. Vacancies in the ~~supreme~~
1 16 ~~court and~~ district court shall be filled by appointment by the
1 17 governor from lists of nominees submitted by the appropriate
1 18 district judicial nominating commission. ~~Three nominees shall~~
1 19 ~~be submitted for each supreme court vacancy, and two~~ Two
1 20 nominees shall be submitted for each district court vacancy.
1 21 If the governor fails for thirty days to make the appointment,
1 22 it the appointment shall be made ~~from such nominees~~ by the
1 23 chief justice of the supreme court.

1 24 3. Section 16, unnumbered paragraph 1, of Article V of the
1 25 Constitution of the State of Iowa, as added by the Amendment
1 26 of 1962, is amended beginning July 1, 2015, by striking the
1 27 unnumbered paragraph.

1 28 4. Section 16, unnumbered paragraph 3, of Article V of the
1 29 Constitution of the State of Iowa, as added by the Amendment of
1 30 1962, is amended beginning July 1, 2015, to read as follows:

1 31 Due consideration shall be given to area representation in
1 32 the appointment and election of district judicial nominating
1 33 commission members. Appointive and elective members of the
1 34 district judicial nominating commissions shall serve for
1 35 six-year terms, shall be ineligible for a second six-year term



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Senate Joint Resolution 13 - Introduced continued

2 1 on the same commission, shall hold no office of profit of the
2 2 United States or of the state during their terms, shall be
2 3 chosen without reference to political affiliation, and shall
2 4 have such other qualifications as may be prescribed by law. As
2 5 near as may be, the terms of one-third of such members shall
2 6 expire every two years.

2 7 5. Section 17 of Article V of the Constitution of the
2 8 State of Iowa, as added by the Amendment of 1962, is amended
2 9 beginning July 1, 2015, to read as follows:

2 10 Terms == judicial elections. SEC. 17. Members of all

2 11 courts, except the supreme court, shall have such tenure in
2 12 office as may be fixed by law, ~~but terms of supreme court~~

~~2 13 judges shall be not less than eight years and the terms~~

2 14 of district court judges shall be not less than six years.

2 15 Judges, other than supreme court judges, shall serve for one

2 16 year after appointment and until the first day of January

2 17 following the next judicial election after the expiration of

2 18 such year. They shall at such judicial election stand for

2 19 retention in office on a separate ballot which shall submit the

2 20 question of whether such judge shall be retained in office for

2 21 the tenure prescribed for such office and when such tenure is a

2 22 term of years, on their request, they shall, at the judicial

2 23 election next before the end of each term, stand again for

2 24 retention on such ballot. Present ~~supreme court and~~ district

2 25 court judges, at the expiration of their respective terms, may

2 26 be retained in office in like manner for the tenure prescribed

2 27 for such office. The general assembly shall prescribe the time

2 28 for holding judicial elections.

2 29 Sec. 2. REFERRAL AND PUBLICATION. The foregoing amendment

2 30 to the Constitution of the State of Iowa is referred to the

2 31 general assembly to be chosen at the next general election

2 32 for members of the general assembly, and the secretary of

2 33 state is directed to cause the same to be published for three

2 34 consecutive months previous to the date of that election as

2 35 provided by law.



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Senate Joint Resolution 13 - Introduced continued

3 1 EXPLANATION

3 2 This joint resolution proposes an amendment to the

3 3 Constitution of the State of Iowa requiring the justices of

3 4 the supreme court to be elected to a term of office of every

3 5 six years on a statewide basis. The constitution currently

3 6 requires each justice of the supreme court to be retained in

3 7 office every eight years after serving an initial term of

3 8 office of up to two years immediately after appointment.

3 9 The general assembly established the number of supreme court

3 10 justices at seven in Code section 602.4101 under the authority

3 11 of article V, section 10, of the Iowa constitution. The number

3 12 of supreme court justices shall not fall below three justices

3 13 under article V, section 2, of the Iowa constitution.

3 14 The resolution does not impact the nomination and

3 15 appointment process for other judicial officers.

3 16 The resolution, if adopted, would be referred to the next

3 17 general assembly (Eighty=fifth) for adoption before the

3 18 amendment is submitted to the electorate for ratification.

3 19 The resolution if adopted and ratified by the electorate

3 20 takes effect July 1, 2015.

LSB 1513SS (5) 84

jm/rj



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Senate Study Bill 1086

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT
OF COMMERCE/ALCOHOLIC
BEVERAGES DIVISION
BILL)

A BILL FOR

- 1 An Act relating to matters under the purview of the alcoholic
- 2 beverages division of the department of commerce, and making
- 3 penalties applicable.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 1 Section 1. Section 22.7, subsection 24, Code 2011, is
1 2 amended by striking the subsection.
1 3 Sec. 2. Section 123.3, Code 2011, is amended by adding the
1 4 following new subsection:
1 5 NEW SUBSECTION. 014A. "Grape brandy" means brandy produced
1 6 by the distillation of fermented grapes or grape juice.
1 7 Sec. 3. Section 123.41, Code 2011, is amended to read as
1 8 follows:
1 9 123.41 Manufacturer's license.
1 10 1. Upon application in the prescribed form and accompanied
1 11 by a fee of three hundred fifty dollars, the administrator may
1 12 in accordance with this chapter grant and issue a license,
1 13 valid for a one=year period after date of issuance, to a
1 14 manufacturer which shall allow the manufacture, storage, and
1 15 wholesale disposition and sale of alcoholic liquors to the
1 16 division and to customers outside of the state.
1 17 2. As a condition precedent to the approval and granting of
1 18 a manufacturer's license, an applicant shall file a statement
1 19 under oath with the division that the applicant is a bona fide
1 20 manufacturer of alcoholic liquors, and that the applicant
1 21 will faithfully observe and comply with all laws, rules, and
1 22 regulations governing the manufacture and sale of alcoholic
1 23 liquor.
1 24 ~~2- 3.~~ A person who holds an experimental distilled spirits
1 25 plant permit or its equivalent issued by the ~~federal bureau~~
1 26 ~~of alcohol, tobacco and firearms~~ alcohol and tobacco tax and
1 27 trade bureau of the United States department of the treasury
1 28 may produce alcohol for use as fuel without obtaining a
1 29 manufacturer's license from the division.
1 30 4. A violation of the requirements of this section shall
1 31 subject the licensee to the general penalties provided in this
1 32 chapter and shall constitute grounds for imposition of a civil
1 33 penalty or suspension or revocation of the license after notice
1 34 and opportunity for a hearing pursuant to section 123.39 and
1 35 chapter 17A.



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2 1 Sec. 4. Section 123.43A, subsection 8, Code 2011, is amended
2 2 to read as follows:

2 3 8. Micro=distilled spirits purchased at a micro=distillery
2 4 shall not be consumed ~~within three hundred feet of a~~
~~2 5 micro-distillery or on any property owned, operated, or~~
2 6 controlled by a micro=distillery.

2 7 Sec. 5. Section 123.56, subsections 1, 2, and 3, Code 2011,
2 8 are amended to read as follows:

2 9 1. Subject to rules of the division, manufacturers of
2 10 native wines from grapes, cherries, other fruits or other fruit
2 11 juices, vegetables, vegetable juices, dandelions, clover,
2 12 honey, or any combination of these ingredients, holding a
2 13 class "A" wine permit as required by this chapter, may sell,
2 14 keep, or offer for sale and deliver the wine. ~~Sales may be~~
~~2 15 made at retail for off-premises consumption when sold on the~~
~~2 16 premises of the manufacturer, or in a retail establishment~~
~~2 17 operated by the manufacturer. Sales may also be made to class~~
~~2 18 "A" or retail wine permittees or liquor control licensees as~~
~~2 19 authorized by the class "A" wine permit. Notwithstanding any~~
2 20 other provision of this chapter, manufacturers of native wine
2 21 may purchase and possess grape brandy from the division for the
2 22 sole purpose of manufacturing wine.

2 23 2. Native wine may be sold at retail for off=premises
2 24 consumption when sold on the premises of the manufacturer,
2 25 or in a retail establishment operated by the manufacturer.
2 26 Sales may also be made to class "A" or retail wine permittees
2 27 or liquor control licensees as authorized by the class "A"
2 28 wine permit. A manufacturer of native wines shall not sell
2 29 the wines other than as permitted in this chapter and shall
2 30 not allow wine sold to be consumed upon the premises of the
2 31 manufacturer. However, prior to sale native wines may be
2 32 sampled on the premises where made, when no charge is made
2 33 for the sampling. A person may manufacture native wine for
2 34 consumption on the manufacturer's premises, when the wine or
2 35 any part of it is not manufactured for sale.



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Senate Study Bill 1086 continued

3 1 3. A manufacturer of native wines may ship wine in closed
3 2 containers to individual purchasers inside and outside this
3 3 state by obtaining a wine direct shipper license pursuant to
3 4 section 123.187. ~~The manufacturer shall label the package~~
~~3 5 containing the wine with the words "deliver to adults only".~~

3 6 Sec. 6. Section 123.57, Code 2011, is amended to read as
3 7 follows:

3 8 123.57 Examination of accounts.

3 9 The financial condition and transactions of all offices,
3 10 departments, warehouses, and depots of the division shall be
3 11 examined at least once each year by the state auditor and at
3 12 shorter periods if requested by the administrator, governor,
3 13 commission, or executive council the general assembly's
3 14 standing committees on government oversight.

3 15 Sec. 7. REPEAL. Section 123.43, Code 2011, is repealed.

3 16 EXPLANATION

3 17 This bill makes changes regarding matters under the purview
3 18 of the alcoholic beverages division of the department of
3 19 commerce.

3 20 The bill deletes an exception to the open records law in
3 21 Code chapter 22 which currently provides that records of
3 22 purchases of alcoholic liquor from the division which would
3 23 reveal purchases made by an individual class "E" liquor control
3 24 licensee shall be kept confidential, unless required to be
3 25 revealed for law enforcement purposes or for the collection of
3 26 payments due the division pursuant to Code section 123.24.

3 27 The bill provides that prior to the approval and granting
3 28 of a manufacturer's license, which allows the manufacture,
3 29 storage, and wholesale disposition and sale of alcoholic
3 30 liquors to the division and to customers outside of the state,
3 31 an applicant must file a statement under oath with the division
3 32 that the applicant is a bona fide manufacturer of alcoholic
3 33 liquors, and that the applicant will faithfully observe and
3 34 comply with all laws, rules, and regulations governing the
3 35 manufacture and sale of alcoholic liquor. The bill subjects



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4 1 a licensee violating the requirements for issuance of a
4 2 manufacturer's license, in addition to any other applicable
4 3 penalty contained in Code chapter 123, to the civil penalty and
4 4 suspension or revocation provisions contained in Code section
4 5 123.39. The civil penalty is in an amount not to exceed \$1,000
4 6 per violation. The bill repeals Code section 123.43, which
4 7 requires the posting of a \$5,000 bond by applicants for a
4 8 manufacturer's license.
4 9 The bill deletes a current provision prohibiting
4 10 micro=distilled spirits purchased at a micro=distillery from
4 11 being consumed within 300 feet of a micro=distillery.
4 12 Additionally, the bill makes specified changes relating
4 13 to the manufacture of native wine. The bill states that
4 14 manufacturers of native wine may purchase and possess grape
4 15 brandy, as defined in the bill, for the sole purpose of
4 16 manufacturing wine, provided that the grape brandy is purchased
4 17 from the division. The bill clarifies that a manufacturer of
4 18 native wine shall obtain a wine shipper's license pursuant to
4 19 Code section 123.187 and makes the manufacturer subject to the
4 20 provisions of the Code section.

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rn/nh



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Senate Study Bill 1087

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT
OF COMMERCE/ALCOHOLIC
BEVERAGES DIVISION
BILL)

A BILL FOR

1 An Act relating to matters under the purview of the alcoholic
2 beverages division of the department of commerce.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 1 Section 1. Section 123.3, Code 2011, is amended by adding
1 2 the following new subsections:

1 3 NEW SUBSECTION. 014A. "Grocery store" means any retail
1 4 establishment, the business of which consists of the sale of
1 5 food, food products, or beverages for consumption off the
1 6 premises.

1 7 NEW SUBSECTION. 022A. "Micro=distilled spirits" means
1 8 distilled spirits fermented, distilled, or, for a period of
1 9 two years, barrel matured on the licensed premises of the
1 10 micro=distillery where fermented, distilled, or matured.
1 11 "Micro=distilled spirits" also includes blended or mixed spirits
1 12 comprised solely of spirits fermented, distilled, or, for a
1 13 period of two years, barrel matured at a micro=distillery.

1 14 NEW SUBSECTION. 022B. "Micro=distillery" means a business
1 15 with an operational still which, combining all production
1 16 facilities of the business, produces and manufactures less than
1 17 fifty thousand proof gallons of distilled spirits on an annual
1 18 basis.

1 19 NEW SUBSECTION. 26A. "Pharmacy" means a drug store in
1 20 which drugs and medicines are exposed for sale and sold at
1 21 retail, or in which prescriptions of licensed physicians and
1 22 surgeons, dentists, or veterinarians are compounded and sold by
1 23 a registered pharmacist.

1 24 NEW SUBSECTION. 32A. "School" means a public or private
1 25 school or that portion of a public or private school which
1 26 provides facilities for teaching any grade from kindergarten
1 27 through grade twelve.

1 28 Sec. 2. Section 123.3, subsection 22A, Code 2011, is amended
1 29 to read as follows:

1 30 22A. "Native wine" means wine manufactured ~~in this state~~
~~1 31 pursuant to section 123.56 by a manufacturer of native wine.~~

1 32 Sec. 3. Section 123.9, Code 2011, is amended to read as
1 33 follows:

1 34 123.9 Commission meetings.

1 35 The commission shall meet on or before July 1 of each year



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2 1 for the purpose of selecting one of its members as chairperson,
~~2 2 which member shall serve in such capacity~~ for the succeeding
2 3 year. The commission shall otherwise meet quarterly or at
2 4 the call of the chairperson or administrator or, when ~~any~~
2 5 three members file ~~with the chairperson~~ a written request
2 6 for a meeting. Written notice of the time and place of each
2 7 meeting shall be given to each member of the commission. ~~All~~
~~2 8 commission meetings shall be held within the state.~~ A majority
2 9 of the commission members shall constitute a quorum.
2 10 Sec. 4. Section 123.31, unnumbered paragraph 1, Code 2011,
2 11 is amended to read as follows:
2 12 ~~Except as otherwise provided in section 123.35, verified~~
~~2 13 Verified~~ applications for the original issuance or the renewal
2 14 of liquor control licenses shall be filed at the time and in
2 15 the number of copies as the administrator shall prescribe, on
2 16 forms prescribed by the administrator, and shall set forth
2 17 under oath the following information:
2 18 Sec. 5. Section 123.43A, subsection 1, Code 2011, is amended
2 19 by striking the subsection.
2 20 Sec. 6. Section 123.46, subsection 1, paragraph d, Code
2 21 2011, is amended by striking the paragraph.
2 22 Sec. 7. Section 123.129, subsection 1, Code 2011, is amended
2 23 by striking the subsection.
2 24 Sec. 8. Section 123.134, subsection 5, Code 2011, is amended
2 25 by striking the subsection.
2 26 Sec. 9. Section 123.141, Code 2011, is amended to read as
2 27 follows:
2 28 123.141 Keeping liquor where beer is sold.
2 29 No alcoholic liquor for beverage purposes shall be used,
2 30 or kept for any purpose in the place of business of class "B"
2 31 permittees, or on the premises of such class "B" permittees, at
2 32 any time. A violation of any provision of this section shall
2 33 be grounds for suspension or revocation of the permit pursuant
2 34 to section 123.50, subsection 3. This section shall not apply
2 35 in any manner or in any way, ~~to any railway car of any dining~~



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~~3 1 car company, sleeping car company, railroad company or railway~~
~~3 2 company, having a special class "B" permit; to the premises~~
3 3 of any hotel or motel for which a class "B" permit has been
3 4 issued, other than that part of such premises regularly used by
3 5 the hotel or motel for the principal purpose of selling beer
3 6 or food to the general public; or to drug stores regularly and
3 7 continuously employing a registered pharmacist, from having
3 8 alcohol in stock for medicinal and compounding purposes.

3 9 Sec. 10. Section 123.142, unnumbered paragraph 1, Code
3 10 2011, is amended to read as follows:

3 11 It is unlawful for the holder of a class "B" or class "C"
3 12 permit issued under this chapter to sell beer, except beer
3 13 brewed on the premises covered by a special class "A" permit or
3 14 beer purchased from a person holding a class "A" permit issued
3 15 in accordance with this chapter, and on which the tax provided
3 16 in section 123.136 has been paid. However, this section does
3 17 not apply to ~~the holders of special class "B" permits issued~~
~~3 18 under section 123.133 for sales in cars engaged in interstate~~
~~3 19 commerce nor to class "D" liquor control licensees as provided~~
3 20 in this chapter.

3 21 Sec. 11. REPEAL. Sections 123.35, 123.133, 123.153,
3 22 123.154, 123.155, 123.156, 123.157, 123.158, 123.159, 123.160,
3 23 123.161, and 123.162, Code 2011, are repealed.

3 24 EXPLANATION

3 25 This bill makes several changes regarding matters under the
3 26 purview of the alcoholic beverages division of the department
3 27 of commerce.

3 28 The bill deletes definitions of grocery store,
3 29 micro=distillery, micro=distilled spirits, pharmacy, and school
3 30 contained in respective provisions within Code chapter 123, and
3 31 inserts the definitions into the general definitions section
3 32 for the chapter in Code section 123.3. The bill modifies the
3 33 definition of native wine contained within Code section 123.3
3 34 to remove reference to wine manufactured "in this state",
3 35 instead providing that "native wine" means wine manufactured



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4 1 pursuant to Code section 123.56 by a manufacturer of native
4 2 wine.
4 3 The bill amends provisions governing meetings of the
4 4 alcoholic beverages commission, providing that the commission
4 5 shall meet to elect a chairperson on or before July 1 annually,
4 6 rather than on July 1 under current law. The bill provides
4 7 that the commission shall otherwise meet quarterly, or at any
4 8 time called by the administrator of the division in addition
4 9 to the chairperson. The bill deletes a current provision
4 10 prohibiting commission meetings from being held outside of the
4 11 state.
4 12 The bill repeals Code section 123.35, which had prescribed
4 13 simplified application forms for the renewal of liquor control
4 14 licenses, wine permits, and beer permits when qualifications
4 15 had not changed since the license or permit was originally
4 16 issued. The bill also repeals Code section 123.133 providing
4 17 for the issuance of a special class "B" permit for the sale
4 18 of beer on trains, and deletes a provision which currently
4 19 states that Code section 123.141, regarding keeping liquor at
4 20 a location where beer is sold, shall not be applicable to any
4 21 railway car of any dining car company, sleeping car company,
4 22 railroad company, or railway company in possession of a special
4 23 class "B" beer permit. The bill makes conforming changes
4 24 consistent with the repeal of these Code sections.
4 25 The bill additionally repeals Code sections 123.153 through
4 26 123.162, comprising division IV of Code chapter 123, entitled
4 27 "Warehouse Project". The provisions allowed the alcoholic
4 28 beverages commission to issue revenue bonds for a one-time
4 29 warehouse project.

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Senate Study Bill 1088

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT
OF COMMERCE/BANKING
DIVISION BILL)

A BILL FOR

1 An Act relating to matters under the purview of the division of
2 banking of the department of commerce.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 1 Section 1. Section 524.211, subsection 3, Code 2011, is
1 2 amended to read as follows:

1 3 3. The superintendent, general counsel, examiners, and
1 4 other employees of the banking division, who have credit
1 5 relations with a person or entity licensed or registered
1 6 pursuant to chapter 535B, 535D, or 536C, are prohibited from
1 7 participating in decisions, oversight, and official review
1 8 of matters concerning the regulation of the licensee or
1 9 registrant.

1 10 Sec. 2. Section 524.212, subsection 2, Code 2011, is amended
1 11 to read as follows:

1 12 2. The superintendent may receive documents, materials,
1 13 or other information, including otherwise confidential and
1 14 privileged documents, materials, or other information, from
1 15 other local, state, federal, and international regulatory
1 16 agencies, the conference of state bank supervisors and its
1 17 affiliates or subsidiaries, the American association of
1 18 mortgage regulators and its affiliates or subsidiaries, and
1 19 the national association of consumer credit administrators
1 20 and its affiliates or subsidiaries, and shall maintain as
1 21 confidential and privileged any such document, material, or
1 22 other information received with notice or the understanding
1 23 that it is confidential or privileged under the laws of the
1 24 jurisdiction that is the source of the document, material, or
1 25 other information. With respect to documents, materials, or
1 26 other information that is shared or stored electronically,
1 27 the superintendent is authorized to take any necessary steps
1 28 to ensure the division's information technology systems
1 29 comply with the information technology security requirements
1 30 established by any of the regulatory agencies or associations
1 31 of state regulatory agencies described in this section.

1 32 Sec. 3. Section 524.904, subsection 5, Code 2011, is amended
1 33 to read as follows:

1 34 5. a. A state bank may grant loans and extensions of credit
1 35 to a corporate group in an amount not to exceed twenty=five



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2 1 percent of the state bank's aggregate capital if all loans and
2 2 extensions of credit to any one borrower within a corporate
2 3 group conform to subsection 2 or 3, and the financial strength,
2 4 assets, guarantee, or endorsement of any one corporate group
2 5 member is not relied upon as a basis for loans and extensions
2 6 of credit to any other corporate group member. A state bank
2 7 may grant loans and extensions of credit to a corporate group
2 8 in an amount not to exceed thirty=five percent of aggregate
2 9 capital if all loans and extensions of credit to any one
2 10 borrower within a corporate group conform to subsection 2,
2 11 3, or 4, and the financial strength, assets, guarantee, or
2 12 endorsement of any one corporate group member is not relied
2 13 upon as a basis for loans and extensions of credit to any other
2 14 corporate group member. ~~A corporate group includes a person~~
~~2 15 and all corporations in which the person owns or controls fifty~~
~~2 16 percent or more of the shares entitled to vote. While not to~~
~~2 17 be construed as an endorsement of the quality of any loan or~~
~~2 18 extension of credit, the superintendent may authorize a state~~
~~2 19 bank to grant loans and extensions of credit to a corporate~~
~~2 20 group in an amount not to exceed fifty percent of aggregate~~
~~2 21 capital if all loans and extensions of credit to any one~~
~~2 22 borrower within a corporate group conform to subsection 2 or 3,~~
~~2 23 and the financial strength, assets, guarantee, or endorsement~~
~~2 24 of any one corporate group member is not relied upon as a basis~~
~~2 25 for loans and extensions of credit to any other corporate group~~
~~2 26 member.~~
2 27 b. For the purposes of this subsection, a corporate group
2 28 includes the following:
2 29 (1) The interests of a group of more than one borrower,
2 30 or any combination of the members of the group, are so
2 31 interrelated that they should be considered a unit for the
2 32 purpose of applying the lending limit limitations of this
2 33 section.
2 34 (2) One or more persons owns or controls fifty percent or
2 35 more of the voting securities or membership interests of the



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3 1 borrowing entity or a member of the group.

3 2 (3) One or more persons controls, in any manner, the
3 3 election of a majority of the directors, managers, trustees,
3 4 or other persons exercising similar functions of the borrowing
3 5 entity or a member of the group.

3 6 (4) One or more persons has the power to vote fifty percent
3 7 or more of any class of voting securities or membership
3 8 interests of the borrowing entity or a member of the group.

3 9 c. To demonstrate compliance with this subsection, a
3 10 bank shall maintain in its files, at a minimum, all of the
3 11 following:

3 12 (1) Documentation demonstrating the current ownership of
3 13 the borrowing entity.

3 14 (2) Documentation identifying the persons who have voting
3 15 rights in the borrowing entity.

3 16 (3) Documentation identifying the board of directors and
3 17 senior management of the borrowing entity.

3 18 (4) The bank's assessment of the borrowing entity's means
3 19 of servicing the loan or extension of credit, including
3 20 specific reasons in support of that assessment. The assessment
3 21 shall include an analysis of the borrowing entity's financial
3 22 history, its present and projected economic and financial
3 23 performance, and the significance of any financial support
3 24 provided to the borrowing entity by members of the corporate
3 25 group and third parties.

3 26 Sec. 4. Section 524.904, subsection 7, Code 2011, is amended
3 27 by adding the following new paragraph:

3 28 NEW PARAGRAPH. m. A renewal or restructuring of a loan as
3 29 a new loan or extension of credit following the exercise by
3 30 a state bank of reasonable efforts, consistent with safe and
3 31 sound banking practices, to bring the loan into conformance
3 32 with the lending limit, unless new funds are advanced by the
3 33 bank to the borrower or unless a new borrower replaces the
3 34 original borrower or unless the superintendent determines that
3 35 the renewal or restructuring was undertaken as a means to evade



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4 1 the bank's lending limit.
4 2 Sec. 5. Section 524.1201, subsection 4, Code 2011, is
4 3 amended by striking the subsection.
4 4 Sec. 6. Section 535B.4, Code 2011, is amended by adding the
4 5 following new subsection:
4 6 NEW SUBSECTION. 8A. A licensee may not establish branch
4 7 locations outside of the United States.
4 8 Sec. 7. Section 535B.6, Code 2011, is amended to read as
4 9 follows:
4 10 535B.6 Licensing of ~~foreign corporation~~ certain corporations.
4 11 1. An applicant that is a foreign corporation incorporated
4 12 under the laws of another state in the United States must be
4 13 authorized to do business in this state. A foreign corporation
4 14 Such a corporation shall file with the license application both
4 15 of the following:
4 16 1. a. An irrevocable consent, duly acknowledged, that
4 17 suits and actions may be commenced against that licensee in the
4 18 courts of this state by service of process in the usual manner
4 19 provided for by the statutes and court rules of this state.
4 20 2. b. Proof of authorization to do business in this state.
4 21 2. Businesses that are incorporated outside of the United
4 22 States are not eligible for a license.
4 23 Sec. 8. Section 535D.4, subsection 1, Code 2011, is amended
4 24 to read as follows:
4 25 1. On or after January 1, 2010, an individual shall not
4 26 engage in the business of a mortgage loan originator with
4 27 respect to any dwelling or residential real estate located in
4 28 this state without first obtaining and maintaining annually
4 29 a license under this chapter. Each licensed mortgage loan
4 30 originator must register with and maintain a valid unique
4 31 identifier issued by the nationwide mortgage licensing system
4 32 and registry.
4 33 Sec. 9. NEW SECTION. 535D.23 Reports of condition required
4 34 ==== exceptions.
4 35 Each mortgage loan originator licensee shall submit



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5 1 reports of condition to the nationwide mortgage licensing
5 2 system and registry unless the mortgage loan originator's
5 3 activity is included in a report submitted by the mortgage
5 4 loan originator's employer in accordance with section 535B.11,
5 5 subsection 3, section 535B.18, or section 536A.14, subsection
5 6 2. The reports shall be in such form and shall contain such
5 7 information as the nationwide mortgage licensing system and
5 8 registry may require.

5 9 EXPLANATION

5 10 This bill makes several changes in connection with banking
5 11 and mortgage regulation by the division of banking of the
5 12 department of commerce.

5 13 The bill provides that the superintendent of banking
5 14 is authorized to ensure that the division's information
5 15 technology systems comply with information technology
5 16 security requirements established by any regulatory agency or
5 17 association of regulatory agencies specified in Code section
5 18 524.212.

5 19 The bill makes changes regarding provisions relating to
5 20 a state bank granting loans and extensions of credit to a
5 21 corporate group. The bill provides that, while not to be
5 22 construed as an endorsement of the quality of any loan or
5 23 extension of credit, the superintendent may authorize a state
5 24 bank to grant loans and extensions of credit to a corporate
5 25 group in an amount not to exceed 50 percent of aggregate
5 26 capital if all loans and extensions of credit to any one
5 27 borrower within a corporate group conform to an applicable
5 28 percentage of capital limitations and the financial strength,
5 29 assets, guarantee, or endorsement of any one corporate group
5 30 member is not relied upon as a basis for loans and extensions
5 31 of credit to any other corporate group member.

5 32 The bill modifies the definition of a corporate group for
5 33 purposes of applying corporate group bank lending limits. A
5 34 corporate group shall include the interests of a group of
5 35 more than one borrower, or any combination of the members



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6 1 of the group, which are so interrelated that they should be
6 2 considered a unit for the purpose of applying the lending
6 3 limits; one or more persons owning or controlling 50 percent
6 4 or more of the voting securities or membership interests
6 5 of the borrowing entity or a member of the group; one or
6 6 more persons controlling, in any manner, the election of a
6 7 majority of the directors, managers, trustees, or other persons
6 8 exercising similar functions of the borrowing entity or a
6 9 member of the group; or one or more persons having the power
6 10 to vote 50 percent or more of any class of voting securities
6 11 or membership interests of the borrowing entity or a member
6 12 of the group. The bill states that required documentation to
6 13 demonstrate compliance with corporate group bank lending limits
6 14 includes, at a minimum, demonstrating the current ownership
6 15 of the borrowing entity, identifying the persons who have
6 16 voting rights in the borrowing entity, identifying the board
6 17 of directors and senior management of the borrowing entity,
6 18 and the bank's assessment of the borrowing entity's means of
6 19 servicing the loan or extension of credit including specific
6 20 reasons in support of that assessment.

6 21 The bill deletes a provision which states that a bank shall
6 22 not operate a loan production office or deposit production
6 23 office in Iowa unless either the bank has received approval
6 24 from the superintendent or the bank operated the loan
6 25 production office or deposit production office prior to July
6 26 1, 2006.

6 27 The bill includes in the list of exemptions from a bank's
6 28 lending limit a renewal or restructuring of a loan as a new
6 29 loan or extension of credit if efforts had been made to bring
6 30 the loan into conformance with the lending limit, unless as
6 31 part of the renewal or restructuring new funds are advanced
6 32 by the bank to the borrower or a new borrower replaces the
6 33 original borrower or the superintendent determines that a
6 34 renewal or restructuring was undertaken as a means to evade the
6 35 bank's lending limit.



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7 1 The bill provides that a mortgage banker or mortgage broker
7 2 licensed under Code chapter 535B may not establish branch
7 3 locations outside of the United States, specifies that an
7 4 applicant incorporated under the laws of another state in the
7 5 United States must be authorized to do business in Iowa, and
7 6 specifies that businesses that are incorporated outside of the
7 7 United States are not eligible for licensure.
7 8 The bill adds persons or entities licensed under Code
7 9 chapter 535D, the mortgage licensing act, to provisions
7 10 prohibiting the superintendent, general counsel, examiners,
7 11 and other employees of the banking division, if engaged in
7 12 credit relations with the person or entity, from participating
7 13 in specified regulatory actions over the person or entity.
7 14 The bill provides that an individual shall not engage in
7 15 the business of a mortgage loan originator with respect
7 16 to any dwelling or residential real estate located in this
7 17 state without obtaining and maintaining a license under Code
7 18 chapter 535D. This provision had previously been restricted
7 19 to "residential real estate". The bill establishes a new
7 20 requirement that each mortgage loan originator licensee under
7 21 the Code chapter shall submit to the nationwide mortgage
7 22 licensing system and registry reports of condition required by
7 23 the system and registry, unless the mortgage loan originator's
7 24 activity is included in a mortgage call report submitted by
7 25 the originator's employer in accordance with specified Code
7 26 sections.

LSB 1246DP (10) 84

rn/sc



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SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT
OF COMMERCE/INSURANCE
DIVISION BILL)

A BILL FOR

1 An Act relating to various matters under the purview of the
2 insurance division of the department of commerce.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1314DP (14) 84
av/sc



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1 1 Section 1. Section 502.410, subsection 4, paragraph a, Code
1 2 2011, is amended to read as follows:

1 3 a. The fee for an individual is ~~thirty~~ forty dollars
1 4 when filing an application for registration as an investment
1 5 adviser representative, a fee of ~~thirty~~ forty dollars when
1 6 filing a renewal of registration as an investment adviser
1 7 representative, and a fee of ~~thirty~~ forty dollars when filing a
1 8 change of registration as an investment adviser representative.
1 9 If the filing results in a denial or withdrawal, the
1 10 administrator shall retain the fee.

1 11 Sec. 2. Section 502.604, subsections 2 and 4, Code 2011, are
1 12 amended to read as follows:

1 13 2. Summary process. An order under subsection 1 is
1 14 effective on the date of issuance. Upon issuance of the order,
1 15 the administrator shall promptly serve each person subject to
1 16 the order with a copy of the order and a notice that the order
1 17 has been entered. The order must include a statement of any
1 18 restitution order, civil penalty, or costs of investigation
1 19 the administrator will seek, a statement of the reasons for
1 20 the order, and notice that, within thirty days after receipt
1 21 of a request in a record from the person, the matter will be
1 22 scheduled for a hearing. If a person subject to the order does
1 23 not request a hearing and none is ordered by the administrator
1 24 within thirty days after the date of service of the order,
1 25 the order, including an order for restitution, the imposition
1 26 of a civil penalty, or a requirement for payment of costs of
1 27 investigation sought in the order, becomes final as to that
1 28 person by operation of law. If a hearing is requested or
1 29 ordered, the administrator, after notice of and opportunity
1 30 for hearing to each person subject to the order, may modify or
1 31 vacate the order or extend it until final determination.

1 32 4. Civil penalty ~~==== restitution ====~~ corrective action. In
1 33 a final order under subsection 3, the administrator may
1 34 impose a civil penalty up to an amount not to exceed a
1 35 maximum of five thousand dollars for a single violation or



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2 1 five hundred thousand dollars for more than one violation,
2 2 order restitution, or take other corrective action as the
2 3 administrator deems necessary and appropriate to accomplish
2 4 compliance with the laws of the state relating to all
2 5 securities business transacted in the state.
2 6 Sec. 3. Section 505.8, subsections 1 and 10, Code 2011, are
2 7 amended to read as follows:
2 8 1. The commissioner of insurance shall be the head of the
2 9 division, and shall have general control, supervision, and
2 10 direction over all insurance business transacted in the state,
2 11 and shall enforce all the laws of the state relating to ~~such~~
2 12 federal and state insurance business transacted in the state.
2 13 10. The commissioner may, after a hearing conducted
2 14 pursuant to chapter 17A, assess fines or penalties, assess
2 15 costs of an investigation or proceeding, order restitution,
2 16 or take other corrective action as the commissioner deems
2 17 necessary and appropriate to accomplish compliance with the
2 18 laws of the state relating to all insurance business transacted
2 19 in the state.
2 20 Sec. 4. Section 505.8, Code 2011, is amended by adding the
2 21 following new subsection:
2 22 NEW SUBSECTION. 19. The commissioner may adopt
2 23 administrative rules pursuant to chapter 17A as necessary to
2 24 effectuate the insurance provisions of the federal Patient
2 25 Protection and Affordable Care Act of 2010, or other applicable
2 26 federal laws.
2 27 Sec. 5. Section 505.18, subsection 2, unnumbered paragraph
2 28 1, Code 2011, is amended to read as follows:
2 29 The commissioner in collaboration with the consumer advocate
2 30 shall prepare and deliver a report to the governor and to the
2 31 general assembly no later than November 15 of each year that
2 32 provides findings regarding health spending costs for health
2 33 insurance ~~plans~~ carriers in the state for the previous ~~fiscal~~
2 34 calendar year. The commissioner may contract with outside
2 35 vendors or entities to assist in providing the information



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3 1 contained in the annual report. The report shall provide, at a
3 2 minimum, the following information:
3 3 Sec. 6. Section 505.18, subsection 2, paragraph d, Code
3 4 2011, is amended to read as follows:
3 5 d. A ranking and quantification of those factors that result
3 6 in higher costs and those factors that result in lower costs
3 7 for each health insurance ~~plan offered~~ carrier in the state.
3 8 Sec. 7. Section 505.19, subsection 3, Code 2011, is amended
3 9 to read as follows:
3 10 3. The consumer advocate shall solicit public comments on
3 11 each proposed health insurance rate increase application if
3 12 the increase exceeds the average annual health spending growth
3 13 rate as provided in subsection 1, and shall post without delay
3 14 during the normal business hours of the division, all comments
3 15 received on the insurance division's internet site prior to
3 16 approval or disapproval of the proposed rate increase by the
3 17 commissioner.
3 18 Sec. 8. Section 507E.8, Code 2011, is amended to read as
3 19 follows:
3 20 507E.8 ~~Peace~~ Law enforcement officer status.
3 21 1. Bureau investigators shall have the power and status
3 22 of ~~peace~~ law enforcement officers who by the nature of their
3 23 duties may be required to perform the duties of a peace officer
3 24 when making arrests for criminal violations established as a
3 25 result of their investigations pursuant to this chapter.
3 26 2. The general laws applicable to arrests by ~~peace~~ law
3 27 enforcement officers of the state also apply to bureau
3 28 investigators. Bureau investigators shall have the power
3 29 to execute arrest warrants and search warrants for the
3 30 same criminal violations, serve subpoenas issued for the
3 31 examination, investigation, and trial of all offenses
3 32 identified through their investigations, and arrest upon
3 33 probable cause without warrant a person found in the act of
3 34 committing a violation of the provisions of this chapter.
3 35 Sec. 9. Section 508C.5, Code 2011, is amended by adding the



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4 1 following new subsections:

4 2 NEW SUBSECTION. 2A. "Authorized assessment", or the
4 3 term "authorized" when used in the context of an assessment,
4 4 means that a resolution has been passed by the board of
4 5 directors of the association whereby an assessment will be
4 6 called immediately or in the future from member insurers for
4 7 a specified amount. An assessment is authorized when the
4 8 resolution is passed.

4 9 NEW SUBSECTION. 2B. "Benefit plan" means a specific
4 10 employee, union, or association of natural persons benefit
4 11 plan.

4 12 NEW SUBSECTION. 2C. "Called assessment", or the term
4 13 "called" when used in the context of an assessment, means that
4 14 a notice has been issued by the association to member insurers
4 15 requiring that an authorized assessment be paid within the time
4 16 frame set forth within the notice. An authorized assessment
4 17 becomes a called assessment when notice is mailed by the
4 18 association to member insurers.

4 19 Sec. 10. Section 508C.5, subsection 5, Code 2011, is amended
4 20 to read as follows:

4 21 5. "Covered policy" means a policy or contract ~~within the~~
~~4 22 scope of this chapter as~~ or a portion of a policy or contract
4 23 for which coverage is provided under section 508C.3.

4 24 Sec. 11. Section 508C.5, Code 2011, is amended by adding the
4 25 following new subsections:

4 26 NEW SUBSECTION. 12A. "Plan sponsor" means any of the
4 27 following:

4 28 a. The employer in the case of a benefit plan established or
4 29 maintained by a single employer.

4 30 b. The employee organization in the case of a benefit plan
4 31 established or maintained by an employee organization.

4 32 c. In the case of a benefit plan established or maintained
4 33 by two or more employers or jointly by one or more employers
4 34 and one or more employee organizations, the association,
4 35 committee, joint board of trustees, or other similar group of



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5 1 representatives of the parties who establish or maintain the
5 2 benefit plan.

5 3 NEW SUBSECTION. 13A. "Principal place of business" of a
5 4 plan sponsor or a person other than a natural person means the
5 5 single state in which the natural persons who establish policy
5 6 for the direction, control, and coordination of the operations
5 7 of the entity as a whole primarily exercise that function as
5 8 determined pursuant to section 508C.8A.

5 9 NEW SUBSECTION. 13B. "Receivership court" means a court in
5 10 an insolvent or impaired insurer's state having jurisdiction
5 11 over the conservation, rehabilitation, or liquidation of the
5 12 insurer.

5 13 Sec. 12. Section 508C.5, subsection 14, Code 2011, is
5 14 amended to read as follows:

5 15 14. "Resident" means a person to whom a contractual
5 16 obligation is owed and who resides in a state on the date of
5 17 entry of a court order that determines a member insurer is an
5 18 impaired insurer or a court order that determines a member
5 19 insurer is an insolvent insurer, ~~whichever occurs first~~. A
5 20 person may be a resident of only one state, which in the case of
5 21 a person other than a natural person shall be the state of that
5 22 person's principal place of business. A citizen of the United
5 23 States who is a resident of a foreign country, or is a resident
5 24 of a United States possession, territory, or protectorate that
5 25 does not have an association similar to the association created
5 26 by this chapter, shall be deemed a resident of the state or
5 27 domicile of the insurer that issued the policy or contract.

5 28 Sec. 13. NEW SECTION. 508C.8A Principal place of business
5 29 === determination.

5 30 1. The principal place of business of a plan sponsor or a
5 31 person other than a natural person shall be determined by the
5 32 association in its reasonable judgment by considering all of
5 33 the following factors:

5 34 a. The state in which the primary executive and
5 35 administrative headquarters of the entity is located.



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6 1 b. The state in which the principal office of the chief
6 2 executive officer of the entity is located.

6 3 c. The state in which the board of directors or similar
6 4 governing person or persons of the entity conducts the majority
6 5 of its meetings.

6 6 d. The state in which the executive or management committee
6 7 of the board of directors or similar governing person or
6 8 persons of the entity conducts the majority of its meetings.

6 9 e. The state from which the management of the overall
6 10 operations of the entity is directed.

6 11 2. In the case of a benefit plan sponsored by affiliated
6 12 companies comprising a consolidated corporation, the principal
6 13 place of business of the entity shall be deemed to be the state
6 14 in which the holding company or controlling affiliate has its
6 15 principal place of business as determined by the association
6 16 using the factors enumerated in subsection 1. However, if more
6 17 than fifty percent of the participants in the benefit plan are
6 18 employed in a single state, that state shall be determined to
6 19 be the principal place of business of the entity.

6 20 3. In the case of a benefit plan established or maintained
6 21 by two or more employers, or jointly by one or more employers
6 22 and one or more employee organizations, the principal place
6 23 of business of the entity shall be deemed to be the principal
6 24 place of business of the association, committee, joint board
6 25 of trustees, or other similar group of representatives of
6 26 the parties who establish or maintain the benefit plan. In
6 27 lieu of a specific or clear designation of the principal
6 28 place of business of the entity under this subsection, the
6 29 principal place of business of the entity shall be deemed to
6 30 be the principal place of business of the employer or employee
6 31 organization that has the largest investment in the benefit
6 32 plan in question.

6 33 Sec. 14. Section 508C.9, subsections 2 through 6, Code 2011,
6 34 are amended to read as follows:

6 35 2. There are two classes of assessments as follows:



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7 1 a. Class A assessments shall be ~~made~~ authorized and called
7 2 for the purpose of meeting administrative and legal costs and
7 3 other ~~general expenses and examinations conducted under section~~
7 4 ~~508C.12, subsection 5~~. Class A assessments may be authorized
7 5 and called whether or not related to a particular impaired or
7 6 insolvent insurer.
7 7 b. Class B assessments shall be ~~made~~ authorized and called
7 8 to the extent necessary to carry out the powers and duties of
7 9 the association under section 508C.8 with regard to an impaired
7 10 ~~domestic insurer or an insolvent domestic, foreign, or alien~~
7 11 insurer.
7 12 3. a. The amount of a class A assessment shall be
7 13 determined by the board ~~and to the extent that class A~~
7 14 ~~assessments do not exceed one hundred dollars per company~~
7 15 ~~in any one calendar year may be made on a per capita basis~~
7 16 ~~and may be authorized and called on a pro rata or non=pro~~
7 17 ~~rata basis. If pro rata, the board may provide that the~~
7 18 ~~assessment be credited against future class B assessments.~~
7 19 ~~The total of all non=pro rata assessments shall not exceed~~
7 20 ~~three hundred dollars per member insurer in any one calendar~~
7 21 ~~year. The amount of a class B assessment shall be allocated~~
7 22 ~~for assessment purposes among the accounts as the liabilities~~
7 23 ~~and expenses of the association, either experienced or~~
7 24 ~~reasonably expected, are attributable to those accounts, all~~
7 25 ~~as determined by the association and on as equitable a basis~~
7 26 ~~as is reasonably practical pursuant to an allocation formula~~
7 27 ~~which may be based on the premiums or reserves of the impaired~~
7 28 ~~or insolvent insurer or on any other standard deemed by the~~
7 29 ~~board in its sole discretion as being fair and reasonable under~~
7 30 ~~the circumstances.~~
7 31 b. ~~Class A assessments in excess of one hundred dollars~~
7 32 ~~per company per calendar year and class B assessments against~~
7 33 ~~member insurers for each account shall be in the proportion~~
7 34 ~~that the average of the aggregate premiums received on business~~
7 35 ~~in this state by each assessed member insurer on policies or~~



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8 1 contracts ~~related to that~~ covered by each account for the three
8 2 most recent calendar years for which information is available,
8 3 preceding the year in which the insurer became ~~impaired or~~
8 4 insolvent, ~~is or,~~ in the case of an assessment with respect to
8 5 an impaired insurer, the three most recent calendar years for
8 6 which information is available preceding the year in which the
8 7 insurer became impaired, bears to the ~~average of the aggregate~~
8 8 premiums received on business in this state for those calendar
8 9 years by all assessed member insurers ~~on policies related to~~
~~8 10 that account for the three most recent calendar years for which~~
~~8 11 information is available preceding the assessment.~~
8 12 c. Assessments for funds to meet the requirements of the
8 13 association with respect to an impaired or insolvent insurer
8 14 shall not be ~~made~~ authorized or called until necessary to
8 15 implement the purposes of this chapter. Classification
8 16 of assessments under ~~this~~ subsection 2 and computation
8 17 of assessments under this subsection shall be made with
8 18 a reasonable degree of accuracy, recognizing that exact
8 19 determinations may not always be possible. The association
8 20 shall notify each member insurer of its anticipated pro rata
8 21 share of an authorized assessment not yet called within one
8 22 hundred eighty days after the assessment is authorized.
8 23 4. The association may abate or defer, in whole or in part,
8 24 the assessment of a member insurer if, in the opinion of the
8 25 board, payment of the assessment would endanger the ability of
8 26 the member insurer to fulfill its contractual obligations. If
8 27 an assessment against a member insurer is abated or deferred,
8 28 in whole or in part, the amount by which the assessment is
8 29 abated or deferred may be assessed against the other member
8 30 insurers in a manner consistent with the basis for assessments
8 31 set forth in this section. Once the conditions that caused
8 32 an abatement or deferral have been removed or rectified, the
8 33 member insurer shall pay all assessments that were abated
8 34 or deferred pursuant to a repayment plan approved by the
8 35 association.



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9 1 5. a. (1) ~~The~~ Subject to the provisions of subparagraph
9 2 (2) of this paragraph "a", the total of all assessments ~~upon~~
~~9 3 authorized by the association with respect to a member insurer~~
9 4 for each ~~account~~ of the accounts established pursuant to
9 5 section 508C.6, and designated as the health insurance account,
9 6 the life insurance account, the annuity account, and the
9 7 unallocated annuity contract account, shall not in any one
9 8 calendar year exceed two percent of ~~the average of the that~~
9 9 member insurer's average annual premiums received in this state
9 10 on the policies and contracts covered by the account during
9 11 the three ~~most recent~~ calendar years ~~for which information is~~
~~9 12 available, preceding the year in which the insurer becomes~~
9 13 impaired or insolvent, ~~on the policies related to that account.~~
9 14 (2) ~~However, if~~ If two or more assessments are authorized
9 15 in one calendar year with respect to insurers that become
9 16 impaired or insolvent in different calendar years, the average
9 17 annual premiums for purposes of the aggregate assessment
9 18 percentage limitation referred to in subparagraph (1) of this
9 19 paragraph "a" shall be equal, and limited, to the higher of the
9 20 three-year average annual premiums for the applicable account
9 21 as calculated pursuant to this section.
9 22 (3) If the maximum assessment ~~for an account~~, together
9 23 with the other assets of the association in the account,
9 24 does not provide in ~~any~~ one year in ~~the~~ either account an
9 25 amount sufficient to carry out the responsibilities of the
9 26 association, the necessary additional funds shall be assessed
9 27 for the account in succeeding years as soon as permitted by
9 28 this chapter.
9 29 b. The board may provide in its plan of operation a method
9 30 of allocating funds among claims, whether relating to one
9 31 or more impaired or insolvent insurers, when the maximum
9 32 assessment will be insufficient to cover anticipated claims.
9 33 ~~b. c.~~ c. If the maximum assessment ~~under paragraph "a"~~ for ~~any~~
~~9 34 account, other than the health insurance account, either the~~
9 35 life insurance account, the annuity account, or the unallocated



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10 1 annuity contract account in one year does not provide an amount
10 2 sufficient to carry out the responsibilities of the association
10 3 ~~in any succeeding year~~, the board, pursuant to subsection 3,
10 4 paragraph "a" "b", shall ~~assess~~ access any of the other said
10 5 accounts for the necessary additional amount ~~and allocate the~~
10 6 ~~amount for assessment among the accounts, other than the health~~
10 7 ~~insurance account, in the following sequence: from the life~~
10 8 ~~insurance account, to the annuity account, to the unallocated~~
10 9 ~~annuity contract account; from the annuity account, to the~~
10 10 ~~unallocated annuity contract account, to the life insurance~~
10 11 ~~account; from the unallocated annuity contract account, to the~~
10 12 ~~annuity account, to the life insurance account; provided that~~
10 13 ~~no amount shall be allocated to an account for assessment until~~
10 14 ~~the maximum amount has been allocated to the preceding account,~~
10 15 subject to the maximum assessments stated in paragraph "a" of
10 16 this subsection.

10 17 6. By an equitable method as established in the plan
10 18 of operation, the board may refund to member insurers, in
10 19 proportion to the contribution of each insurer to that account,
10 20 the amount by which the assets of the account, including assets
10 21 accruing from assignment, subrogation, net realized gains, and
10 22 income from investments, exceed the amount the board finds is
10 23 necessary to carry out during the coming year the obligations
10 24 of the association with regard to that account. A reasonable
10 25 amount may be retained in any account to provide funds for the
10 26 continuing expenses of the association and for future losses if
10 27 ~~refunds are impractical claims.~~

10 28 Sec. 15. Section 508C.9, Code 2011, is amended by adding the
10 29 following new subsections:

10 30 NEW SUBSECTION. 9. a. A member insurer that wishes to
10 31 protest all or part of an assessment shall pay when due the
10 32 full amount of the assessment as set forth in the notice
10 33 provided by the association. The payment shall be made
10 34 available to meet association obligations during the pendency
10 35 of the protest or any subsequent appeal. The payment shall



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11 1 be accompanied by a statement in writing that the payment is
11 2 made under protest and setting forth a brief statement of the
11 3 grounds for the protest.
11 4 b. Within sixty days following the payment of an assessment
11 5 under protest by a member insurer, the association shall
11 6 either notify the protesting member insurer in writing of
11 7 its determination with respect to the protest or notify the
11 8 protesting member insurer that additional time is required to
11 9 resolve the issues raised by the protest.
11 10 c. Within thirty days after a final decision has been made,
11 11 the association shall notify the protesting member insurer in
11 12 writing of that final decision. Within sixty days of receipt
11 13 of notice of the final decision, the protesting member insurer
11 14 may appeal that final decision to the commissioner.
11 15 d. As an alternative to rendering a final decision with
11 16 respect to a protest of an assessment, the association may
11 17 refer the protest to the commissioner for a final decision,
11 18 with or without a recommendation from the association.
11 19 e. If a protest or subsequent appeal of an assessment is
11 20 upheld in favor of the protesting member insurer, the amount
11 21 paid in error or the excess shall be refunded to the member
11 22 insurer. Interest on a refund due a protesting member insurer
11 23 shall be paid at the rate actually earned by the association
11 24 during the pendency of the protest or any subsequent appeal.
11 25 NEW SUBSECTION. 10. The association may request
11 26 information from member insurers in order to aid in the
11 27 exercise of the association's power under this section, and the
11 28 member insurers shall promptly comply with such a request.
11 29 Sec. 16. Section 508C.11, subsection 1, paragraph c, Code
11 30 2011, is amended by striking the paragraph.
11 31 Sec. 17. Section 508C.11, subsection 3, Code 2011, is
11 32 amended to read as follows:
11 33 3. ~~An~~ A final action of the board of directors or the
11 34 association may be appealed to the commissioner by a member
11 35 insurer if the appeal is taken within ~~thirty~~ sixty days of the



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12 1 member insurer's receipt of notice of the final action being
12 2 appealed. A final action or order of the commissioner is
12 3 subject to judicial review pursuant to chapter 17A in a court
12 4 of competent jurisdiction.

12 5 Sec. 18. Section 508C.12, subsection 1, paragraphs b
12 6 through d, Code 2011, are amended to read as follows:

12 7 b. Report to the board of directors when the commissioner
12 8 has taken any of the actions set forth in paragraph "a" or has
12 9 received a report from any other commissioner indicating that ~~a~~
~~12 10 member insurer is impaired or insolvent~~ such action has been
12 11 taken in another state. Reports to the board of directors
12 12 shall contain all significant details of the action taken or
12 13 the report received from another commissioner.

12 14 c. Report to the board of directors when there is reasonable
12 15 cause to believe from an examination, whether completed or in
12 16 process, of a member ~~company~~ insurer that the ~~company~~ insurer
12 17 may be an impaired or insolvent insurer.

12 18 d. Furnish to the board of directors the national
12 19 association of insurance commissioners' ~~early warning tests.~~
~~12 20 The insurance regulatory information system ratios, and~~
12 21 listing of insurers not included in the ratios, developed
12 22 by the national association of insurance commissioners, and
12 23 the board may use the information in carrying out its duties

12 24 and responsibilities under this section. The report and the
12 25 information contained in the report shall be kept confidential
12 26 by the board of directors until such time as it is made public
12 27 by the commissioner or other lawful authority.

12 28 Sec. 19. Section 508C.12, subsection 2, Code 2011, is
12 29 amended to read as follows:

12 30 2. The commissioner may seek the advice and recommendations
12 31 of the board of directors concerning any matter affecting
12 32 the commissioner's duties and responsibilities regarding the
12 33 financial condition of member ~~companies~~ insurers and companies
12 34 seeking admission to transact insurance business in this state.

12 35 Sec. 20. Section 508C.12, subsection 7, Code 2011, is



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13 1 amended by striking the subsection.

13 2 Sec. 21. Section 508C.16, Code 2011, is amended to read as
13 3 follows:

13 4 508C.16 Immunity ==== indemnification.

13 5 1. A member insurer and its agents and employees, the
13 6 association and its agents and employees, members of the board
13 7 of directors, and the commissioner and the commissioner's
13 8 representatives are not liable for any action taken by them
13 9 or omission by them while acting within the scope of their
13 10 employment and in the performance of their powers and duties
13 11 under this chapter and such immunity granted under this section
13 12 shall extend to their participation in any organization of one
13 13 or more state associations of similar purposes and to that
13 14 organization and its agents and employees.

13 15 2. Sections 490.850 through 490.859 apply to the
13 16 association.

13 17 Sec. 22. Section 508C.17, Code 2011, is amended to read as
13 18 follows:

13 19 508C.17 Stay of proceedings ==== reopening default judgments.

13 20 Proceedings in which the insolvent insurer is a party in a
13 21 court in this state shall be stayed ~~sixty~~ one hundred eighty
13 22 days from the date an order of liquidation, rehabilitation,
13 23 or conservation is final to permit proper legal action by the
13 24 association on matters germane to its powers or duties. The
13 25 association may apply to have a judgment under a decision,
13 26 order, verdict, or finding based on default, set aside by the
13 27 same court that entered the judgment, and shall be permitted to
13 28 defend against the suit on the merits.

13 29 Sec. 23. Section 508C.18, Code 2011, is amended to read as
13 30 follows:

13 31 508C.18 Prohibited advertisements.

13 32 A person, including an insurer, agent or affiliate of an
13 33 insurer, shall not make, publish, disseminate, circulate, or
13 34 place before the public, or cause directly or indirectly, to
13 35 be made, published, disseminated, circulated, or placed before



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14 1 the public in a newspaper, magazine, or other publication,
14 2 or in the form of a notice, circular, pamphlet, letter, or
14 3 poster, or over a radio station or television station, or in
14 4 any other way, an advertisement, announcement, or statement,
14 5 written or oral, which uses the existence of the insurance
14 6 guaranty association of this state for the purpose of sales,
14 7 solicitation, or inducement to purchase any form of insurance
14 8 covered by this chapter. However, this section does not apply
14 9 to the association or any other entity which does not sell or
14 10 solicit insurance.

14 11 Sec. 24. NEW SECTION. 508C.18A Notice to policyholders ====

14 12 summary of chapter and disclosure.

14 13 1. a. Within one hundred eighty days after enactment of
14 14 this section, the association shall prepare a summary document
14 15 describing the general purposes and current provisions of
14 16 this chapter and containing a disclosure in compliance with
14 17 subsection 2. This summary document shall be submitted to the
14 18 commissioner for approval. The approved summary document and
14 19 disclosure shall be delivered to the owner of an insurance
14 20 policy or contract as provided in this section.

14 21 b. This subsection is repealed July 1, 2012.

14 22 2. a. On or after March 1, 2012, an insurer shall not
14 23 deliver an insurance policy or contract in Iowa to the owner
14 24 of the policy or contract unless a summary document describing
14 25 the general purposes and current provisions of this chapter
14 26 and containing a disclosure in compliance with subsection 3 is
14 27 delivered to the policy or contract owner at the same time.

14 28 b. The summary document shall also be available upon request
14 29 by an insurance policy or contract owner.

14 30 c. The distribution, delivery, contents, or interpretation
14 31 of this summary document does not guarantee that either
14 32 the insurance policy or contract or the owner of the policy
14 33 or contract is covered in the event of the impairment or
14 34 insolvency of a member insurer.

14 35 d. The summary document shall be revised by the association



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15 1 and approved by the commissioner as amendments to this chapter
15 2 may require. Failure to receive a summary document does not
15 3 give the insurance policy or contract owner, certificate
15 4 holder, or insured any greater rights than those stated in this
15 5 chapter.
15 6 3. The summary document prepared pursuant to this section
15 7 shall contain a clear and conspicuous disclosure on its face.
15 8 The commissioner shall establish the form and content of the
15 9 disclosure which shall do all of the following:
15 10 a. State the name and address of the association and the
15 11 Iowa insurance division.
15 12 b. Prominently warn the insurance policy or contract owner
15 13 that the association may not cover the policy or contract or,
15 14 if coverage is available, it will be subject to substantial
15 15 limitations and exclusions and conditioned on continued
15 16 residence in this state.
15 17 c. State the types of insurance policies and contracts for
15 18 which the association will provide coverage.
15 19 d. State that the insurer and its agents are prohibited by
15 20 law from using the existence of the association for the purpose
15 21 of sales, solicitation, or inducement to purchase any form of
15 22 insurance.
15 23 e. State that the insurance policy or contract owner should
15 24 not rely on coverage from the association when selecting an
15 25 insurer.
15 26 f. Explain rights available and procedures for filing a
15 27 complaint to allege a violation of any provisions of this
15 28 chapter.
15 29 g. Provide other information as directed by the
15 30 commissioner, including but not limited to sources for
15 31 information about the financial condition of an insurer
15 32 provided that the information is not proprietary and is subject
15 33 to disclosure under chapter 22.
15 34 4. A member insurer shall retain evidence of compliance with
15 35 the provisions of this section for as long as the insurance



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16 1 policy or contract for which the notice is given remains in
16 2 effect.
16 3 Sec. 25. Section 511.8, subsection 16, Code 2011, is amended
16 4 by adding the following new paragraph:
16 5 NEW PARAGRAPH. h. Financial instruments used in hedging
16 6 transactions, and securities pledged as collateral for
16 7 financial instruments used in highly effective hedging
16 8 transactions, eligible for inclusion in the legal reserve under
16 9 subsection 22 may be made a part of the deposit by filing a
16 10 verified statement of the financial instruments or securities
16 11 pursuant to the terms and conditions of the applicable hedging
16 12 transaction agreement or of the applicable collateral agreement
16 13 or other credit support agreement.
16 14 Sec. 26. Section 511.8, subsection 22, Code 2011, is amended
16 15 by adding the following new paragraph:
16 16 NEW PARAGRAPH. i. Securities held in the legal reserve of
16 17 a life insurance company or association pledged as collateral
16 18 for financial instruments used in highly effective hedging
16 19 transactions as defined in the national association of
16 20 insurance commissioners' Statement of Statutory Accounting
16 21 Principles No. 86 shall continue to be eligible for inclusion
16 22 on the legal reserve of the life insurance company or
16 23 association subject to all of the following:
16 24 (1) The life insurance company or association does not
16 25 include the financial instruments used in highly effective
16 26 hedging transactions for which the securities are pledged as
16 27 collateral in the legal reserve of the life insurance company
16 28 or association, provided, however, that this subparagraph
16 29 shall not exclude securities pledged to a counterparty,
16 30 clearing organization, or clearinghouse on an upfront basis
16 31 in the form of initial margin, independent amount, or other
16 32 securities pledged as a precondition of entering into financial
16 33 instruments used in highly effective hedging transactions from
16 34 inclusion in the legal reserve of the life insurance company
16 35 or association.



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17 1 (2) Securities pledged as collateral for financial
17 2 instruments used in highly effective hedging transactions are
17 3 not eligible in excess of ten percent of the legal reserve of
17 4 the life insurance company or association, less any financial
17 5 instruments used in hedging transactions held in the legal
17 6 reserve under this subsection.

17 7 (3) Securities pledged to a counterparty, clearing
17 8 organization, or clearinghouse on an upfront basis in
17 9 the form of initial margin, independent amount, or other
17 10 securities pledged as a precondition of entering into financial
17 11 instruments used in highly effective hedging transactions are
17 12 not eligible in excess of one percent of the legal reserve of
17 13 the life insurance company or association.

17 14 Sec. 27. Section 514C.18, subsection 1, paragraph a, Code
17 15 2011, is amended by striking the paragraph and inserting in
17 16 lieu thereof the following:

17 17 a. Equipment and supplies.

17 18 Sec. 28. Section 515.125, subsection 1, Code 2011, is
17 19 amended to read as follows:

17 20 1. Unless otherwise provided in section 515.127, 515.128,
17 21 515.129, 515.129A, 515.129B, or 515.129C, a policy or contract
17 22 of insurance provided for in this chapter shall not be
17 23 forfeited, suspended, or canceled except by notice to the
17 24 insured as provided in this chapter. A notice of cancellation
17 25 is not effective unless mailed or delivered by the insurer to
17 26 the named insured at least thirty days before the effective
17 27 date of cancellation or, where cancellation is for nonpayment
17 28 of a premium, assessment, or installment provided for in the
17 29 policy, or in a note or contract for the payment thereof, at
17 30 least ten days prior to the date of cancellation. The notice
17 31 may be made in person, or by sending by mail a letter addressed
17 32 to the insured at the insured's address as given in or upon
17 33 the policy, anything in the policy, application, or a separate
17 34 agreement to the contrary notwithstanding.

17 35 Sec. 29. Section 515.126, Code 2011, is amended to read as



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18 1 follows:

18 2 515.126 Cancellation of policy ==== notice to insured or
18 3 mortgagee.

18 4 1. Unless otherwise provided in section 515.127 ~~or~~,
18 5 515.128, 515.129, 515.129A, 515.129B, or 515.129C, at any time
18 6 after the maturity of a premium, assessment, or installment
18 7 provided for in the policy, or a note or contract for the
18 8 payment thereof, or after the suspension, forfeiture, or
18 9 cancellation of a policy or contract of insurance, the insured
18 10 may pay to the company the customary short rates and costs of
18 11 action, if one has been commenced or judgment rendered thereon,
18 12 and may, if the insured so elects, have the policy and all
18 13 contracts or obligations connected with the policy, whether
18 14 in judgment or otherwise, canceled, and all such policy and
18 15 contracts shall be void; and in case of suspension, forfeiture,
18 16 or cancellation of a policy or contract of insurance, the
18 17 insured is not liable for a greater amount than the short
18 18 rates earned at the date of the suspension, forfeiture, or
18 19 cancellation and the costs of action provided for in this
18 20 section.

18 21 2. If the policy is canceled by the insurance company,
18 22 the insurer may retain only the pro rata premium, and if the
18 23 initial cash premium, or any part of the premium, has not been
18 24 paid, the policy may be canceled by the insurance company by
18 25 giving notice to the insured as provided in section 515.125
18 26 and ten days' notice to the mortgagee, or other person to whom
18 27 the policy is made payable, if any, without tendering any
18 28 part of the premium, anything to the contrary in the policy
18 29 notwithstanding.

18 30 Sec. 30. Section 515D.5, subsection 1, Code 2011, is amended
18 31 to read as follows:

18 32 1. a. Notwithstanding the provisions of sections
18 33 515.125 ~~through 515.127~~, 515.126, and 515.129A, a notice of
18 34 cancellation of a policy shall not be effective unless mailed
18 35 or delivered by the insurer to the named insured at least



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19 1 thirty days prior to the effective date of cancellation,
19 2 or, where the cancellation is for nonpayment of premium
19 3 notwithstanding the provisions of sections 515.125 and ~~515.127~~
~~19 4 515.126~~, at least ten days prior to the date of cancellation.
19 5 A post office department certificate of mailing to the named
19 6 insured at the address shown in the policy shall be proof
19 7 of receipt of such mailing. Unless the reason accompanies
19 8 the notice of cancellation, the notice shall state that upon
19 9 written request of the named insured, mailed or delivered
19 10 to the insurer not less than fifteen days prior to the
19 11 date of cancellation, the insurer will state the reason for
19 12 cancellation together with notification of the right to a
19 13 hearing before the commissioner within fifteen days as provided
19 14 in this chapter.
19 15 **b.** When the reason does not accompany the notice of
19 16 cancellation, the insurer shall, upon receipt of a timely
19 17 request by the named insured, state in writing the reason
19 18 for cancellation. A statement of reason shall be mailed or
19 19 delivered to the named insured within five days after receipt
19 20 of a request.
19 21 Sec. 31. Section 515D.7, subsection 1, Code 2011, is amended
19 22 to read as follows:
19 23 1. Notwithstanding the provisions of sections 515.125
19 24 ~~through 515.128~~, 515.129B, and 515.129C, an insurer shall
19 25 not fail to renew a policy except by notice to the insured
19 26 as provided in this chapter. A notice of intention not to
19 27 renew shall not be effective unless mailed or delivered by the
19 28 insurer to the named insured at least thirty days prior to
19 29 the expiration date of the policy. A post office department
19 30 certificate of mailing to the named insured at the address
19 31 shown in the policy shall be proof of receipt of such mailing.
19 32 Unless the reason accompanies the notice of intent not to
19 33 renew, the notice shall state that, upon written request of the
19 34 named insured, mailed or delivered to the insurer not less than
19 35 thirty days prior to the expiration date of the policy, the



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20 1 insurer will state the reason for nonrenewal.
20 2 Sec. 32. Section 518C.3, subsection 4, paragraph b,
20 3 subparagraph (3), Code 2011, is amended to read as follows:
20 4 (3) ~~An A fee or other amount due an~~ relating to goods and
20 5 services sought by or on behalf of an attorney, adjuster, ~~or~~
20 6 witness ~~as a fee for services rendered to~~, or other provider of
20 7 goods or services retained by the insolvent insurer or by an
20 8 insured prior to the date the insurer was declared insolvent.
20 9 Sec. 33. Section 518C.3, subsection 4, paragraph b, Code
20 10 2011, is amended by adding the following new subparagraphs:
20 11 NEW SUBPARAGRAPH. (4A) A fee or other amount sought by or
20 12 on behalf of an attorney, adjuster, witness, or other provider
20 13 of goods or services retained by the insured or claimant
20 14 in connection with the assertion of any claim, covered or
20 15 otherwise, against the association.
20 16 NEW SUBPARAGRAPH. (4B) A claim filed with the association
20 17 or with a liquidator for protection afforded under the
20 18 insured's policy or contract for incurred but not reported
20 19 losses or expenses.
20 20 Sec. 34. Section 518C.5, Code 2011, is amended to read as
20 21 follows:
20 22 518C.5 Board of directors.
20 23 1. The board of directors of the association shall
20 24 consist of the officers and directors of the mutual insurance
20 25 association of Iowa or its successor association, but only
20 26 if such officers and directors are employed by a corporation
20 27 organized as a county mutual insurance association pursuant to
20 28 chapter 518 or a state mutual insurance association pursuant to
20 29 chapter 518A.
20 30 2. An officer and director of the mutual insurance
20 31 association of Iowa shall serve in the same capacity on the
20 32 association board as the officer or director serves the mutual
20 33 insurance association of Iowa or its successor association, but
20 34 only if the officer and director is employed by a corporation
20 35 organized as a county mutual insurance association pursuant to



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21 1 chapter 518 or a state mutual insurance association pursuant to

21 2 chapter 518A.

21 3 Sec. 35. Section 518C.6, subsection 1, paragraph a,
21 4 subparagraph (2), subparagraph division (b), Code 2011, is
21 5 amended to read as follows:

21 6 (b) An amount not exceeding the lesser of the policy
21 7 limits or ~~three~~ five hundred thousand dollars per claim for
21 8 all covered claims for all damages arising out of any one or a
21 9 series of accidents, occurrences, or incidents, regardless of
21 10 the number of persons making claims or the number of applicable
21 11 policies.

21 12 Sec. 36. Section 518C.15, Code 2011, is amended to read as
21 13 follows:

21 14 518C.15 Immunity.

21 15 ~~Liability~~ There shall be no liability on the part of, and
21 16 a cause of action of any nature shall not arise against, any
21 17 member insurer, the association, ~~or~~ its agents or employees,
21 18 the board of directors, any committee established for the
21 19 purpose of administering the affairs of the association, or any
21 20 person serving as an alternate or substitute representative
21 21 director of the association, or the commissioner, or the
21 22 commissioner's representatives, for any ~~reasonable~~ action taken
21 23 or any failure to act by them in the performance of their
21 24 duties and ~~execution of~~ powers as ~~provided for~~ under this
21 25 chapter.

21 26 Sec. 37. Section 521.1, subsection 4, Code 2011, is amended
21 27 to read as follows:

21 28 4. "Company" means a company or association organized under
21 29 chapter 508, ~~511~~ 514B, 515, 518, 518A, or 520, and includes a
21 30 mutual insurance holding company organized pursuant to section
21 31 521A.14.

21 32 Sec. 38. Section 521.2, subsection 1, Code 2011, is amended
21 33 to read as follows:

21 34 1. One or more domestic mutual insurance companies
21 35 organized under chapter 491 may merge or consolidate with a



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22 1 domestic or foreign mutual insurance company as provided in
22 2 this chapter. ~~Sections 491.102 through 491.105 shall not be~~
~~22 3 applicable to a merger or consolidation of a domestic mutual~~
~~22 4 insurance company pursuant to this chapter.~~
22 5 Sec. 39. Section 521.2, Code 2011, is amended by adding the
22 6 following new subsections:
22 7 NEW SUBSECTION. 5. One or more foreign or domestic stock
22 8 insurance companies may merge into a domestic mutual insurance
22 9 company organized under chapter 491 as provided in this
22 10 chapter.
22 11 NEW SUBSECTION. 6. One or more domestic health maintenance
22 12 organizations or limited service organizations formed under
22 13 chapter 514B may merge into a domestic insurance company
22 14 organized under chapter 490 or chapter 491 as provided in this
22 15 chapter.
22 16 NEW SUBSECTION. 7. Sections 491.102 through 491.105 shall
22 17 not be applicable to a merger or consolidation of a domestic
22 18 mutual insurance company pursuant to this chapter.
22 19 Sec. 40. Section 521E.3, subsection 1, paragraph a,
22 20 unnumbered paragraph 1, Code 2011, is amended to read as
22 21 follows:
22 22 The filing of a risk-based capital report by an insurer which
22 23 indicates ~~either~~ any of the following:
22 24 Sec. 41. Section 521E.3, subsection 1, paragraph a, Code
22 25 2011, is amended by adding the following new subparagraph:
22 26 NEW SUBPARAGRAPH. (3) For a property and casualty insurer,
22 27 the insurer's total adjusted capital is greater than or equal
22 28 to its company-action-level risk-based capital but less than
22 29 the product of its authorized-control-level risk-based capital
22 30 and three and triggers the trend test determined in accordance
22 31 with the trend test calculation included in the property and
22 32 casualty risk-based capital instructions.
22 33 Sec. 42. Section 521F.4, subsection 1, Code 2011, is amended
22 34 to read as follows:
22 35 1. "Company-action-level event" means any of the following:



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23 1 a. The filing of a risk-based capital report by a health
23 2 organization which indicates that the health organization's
23 3 total adjusted capital is greater than or equal to its
23 4 regulatory=action=level risk-based capital but less than its
23 5 company=action=level risk-based capital.

23 6 b. The filing of a risk-based capital report by a health
23 7 organization which indicates that the health organization has
23 8 total adjusted capital which is greater than or equal to its
23 9 company=action=level risk-based capital but less than the
23 10 product of its authorized=control=level risk-based capital and
23 11 three and triggers the trend test determined in accordance with
23 12 the trend test calculations included in the health risk-based
23 13 capital instructions.

23 14 ~~b.~~ c. Notification by the commissioner to a health
23 15 organization of an adjusted risk-based capital report that
23 16 indicates an event in paragraph "a" or "b", provided the health
23 17 organization does not challenge the adjusted risk-based capital
23 18 report and request a hearing pursuant to section 521F.8.

23 19 ~~c.~~ d. If a hearing is requested pursuant to section 521F.8,
23 20 notification by the commissioner to the health organization
23 21 after the hearing that the commissioner has rejected the health
23 22 organization's challenge of the adjusted risk-based capital
23 23 report indicating the event in paragraph "a" or "b".

23 24 Sec. 43. Section 523A.206, subsection 1, Code 2011, is
23 25 amended to read as follows:

23 26 1. The commissioner may conduct an examination under
23 27 this chapter of any seller as often as the commissioner
23 28 deems appropriate. If a seller has a trust arrangement, the
23 29 commissioner shall conduct an examination of such seller doing
23 30 business in this state not less than once every ~~three~~ five
23 31 years unless the seller has provided to the commissioner, on
23 32 an annual basis, a certified copy of an audit conducted by an
23 33 independent certified public accountant verifying compliance
23 34 with this chapter. The commissioner may require an audit of
23 35 a seller, or other person by a certified public accountant



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24 1 to verify compliance with the requirements of this chapter,
24 2 including rules adopted and orders issued pursuant to this
24 3 chapter.

24 4 Sec. 44. Section 523I.213A, subsection 1, Code 2011, is
24 5 amended to read as follows:

24 6 1. The commissioner or the commissioner's designee may
24 7 conduct an examination under this chapter of any cemetery as
24 8 often as the commissioner deems appropriate. If a cemetery
24 9 has a trust arrangement, the commissioner shall conduct an
24 10 examination not less than once every ~~three~~ five years.

24 11 EXPLANATION

24 12 This bill relates to various matters under the purview of the
24 13 insurance division of the department of commerce.

24 14 UNIFORM SECURITIES ACT. Code section 502.410 is amended
24 15 to raise the fee for filing an application for registration,
24 16 renewal, or a change of registration as an investment advisor
24 17 from \$30 to \$40.

24 18 Code section 502.604 is amended to allow the administrator
24 19 of the securities and regulated industries bureau of the
24 20 insurance division of the department of commerce to order
24 21 restitution or take other corrective action as deemed necessary
24 22 to accomplish compliance with the state's securities laws.

24 23 INSURANCE DIVISION. Code section 505.8 is amended to
24 24 provide that the commissioner of insurance shall enforce
24 25 all state laws relating to both federal and state insurance
24 26 business transacted in the state and to allow the commissioner
24 27 to assess the costs of an investigation or proceeding after an
24 28 administrative hearing. The commissioner is also authorized to
24 29 adopt administrative rules and emergency rules pursuant to Code
24 30 chapter 17A as necessary to effectuate the insurance provisions
24 31 of the federal Patient Protection and Affordable Care Act of
24 32 2010, or other applicable federal laws.

24 33 Code section 505.18 is amended to specify that the
24 34 commissioner's duty in preparing a report for the governor and
24 35 the general assembly should include findings regarding health



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25 1 spending costs for health insurance carriers in the state, not
25 2 health insurance plans.
25 3 Code section 505.19 is amended to provide that public
25 4 comments received concerning proposed health insurance rate
25 5 increases will be posted without delay during the normal
25 6 business hours of the insurance division.
25 7 INSURANCE FRAUD. Code section 507E.8 is amended to provide
25 8 that securities and regulated industries bureau investigators
25 9 have the power and status of law enforcement officers who by
25 10 the nature of their duties may be required to perform the
25 11 duties of a peace officer.
25 12 IOWA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION. Code
25 13 section 508C.5 is amended to add definitions of "authorized
25 14 assessment", "benefit plan", "called assessment", "plan
25 15 sponsor", "principal place of business", and "receivership
25 16 court" and to amend the definition of "covered policy" and
25 17 "resident" for purposes of the Code chapter.
25 18 New Code section 508C.8A specifies the factors an
25 19 association must consider in determining what constitutes the
25 20 principal business of a plan sponsor or a person other than a
25 21 natural person.
25 22 Code section 508C.9(2) is amended to require that the
25 23 association must now "authorize" and "call" class A assessments
25 24 for the purpose of meeting administrative and legal costs
25 25 of the association and class B assessments for otherwise
25 26 carrying out the powers and duties of the association. As
25 27 newly defined, an "authorized assessment" means that the
25 28 board of directors of the association has passed a resolution
25 29 authorizing the assessment and a "called assessment" means that
25 30 a notice has been issued to member insurers requiring that an
25 31 authorized assessment be paid within the time set forth in the
25 32 notice.
25 33 Code section 508C.9(3) is amended to provide that class
25 34 A assessments may be authorized and called on a pro rata or
25 35 non=pro rata basis. Pro rata assessments may be credited



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26 1 against future class B assessments and the total of all non=pro
26 2 rata assessments cannot exceed \$300 per member insurer in any
26 3 one calendar year. Class B assessments are determined pursuant
26 4 to an allocation formula which may be based on the premiums
26 5 or reserves of the impaired or insolvent insurer or any other
26 6 standard deemed fair and reasonable by the board. Class B
26 7 assessments for each account maintained by the association are
26 8 made in the proportion each assessed member insurer's premiums
26 9 bear to premiums received by all assessed member insurers. The
26 10 association is required to notify each member insurer of its
26 11 anticipated pro rata share of an assessment within 180 days
26 12 after the assessment is authorized.

26 13 Code section 508C.9(4) is amended to provide that if the
26 14 association abates or defers the assessment of a member
26 15 insurer, the assessment shall be paid by the insurer once the
26 16 conditions that caused the abatement or deferral are removed
26 17 pursuant to a payment plan approved by the association.

26 18 Code section 508C.9(5) is amended to change the calculation
26 19 method for assessments of member insurers with respect to
26 20 the health insurance account, the life insurance account,
26 21 the annuity account, and the unallocated annuity contract
26 22 account. The board is also authorized to provide in its plan
26 23 of operation a method of allocating funds among claims relating
26 24 to one or more impaired or insolvent insurers when the maximum
26 25 assessment will be insufficient to cover anticipated claims.
26 26 If the maximum assessment under the life insurance account, the
26 27 annuity account, or the unallocated annuity contract account is
26 28 insufficient, the board shall access the other said accounts
26 29 for the necessary amount subject to the maximum assessments
26 30 allowed.

26 31 Code section 508C.9(6) is amended to allow the board to
26 32 refund to member insurers amounts the board finds are not
26 33 necessary to carry out the obligations of the association
26 34 with regard to an account that includes assets accruing from
26 35 assignment, subrogation, net realized gains, and income from



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27 1 investments.
27 2 New Code section 508C.9(9) provides a procedure for a member
27 3 insurer to protest and appeal an assessment.
27 4 New Code section 508C.9(10) allows the association to
27 5 request information from member insurers in order to aid in the
27 6 exercise of the association's power.
27 7 Code section 508C.11(1) is amended to strike a provision
27 8 requiring the commissioner to be appointed as the liquidator
27 9 or rehabilitator in a liquidation or rehabilitation proceeding
27 10 involving a domestic insurer.
27 11 Code section 508C.11(3) is amended to provide that a final
27 12 action of the board or the association may be appealed to the
27 13 commissioner by a member insurer within 60, instead of 30, days
27 14 of the insurer's receipt of notice of the final action.
27 15 Code section 508C.12 is amended to require the commissioner
27 16 to report to the board upon receiving notice that certain
27 17 actions have been taken against a member insurer in another
27 18 state and to provide the board with the national association
27 19 of insurance commissioners' insurance regulatory information
27 20 system ratios, and listing of insurers not included in the
27 21 ratios, developed for use by the board in carrying out its
27 22 duties and responsibilities in preventing insolvencies.
27 23 Code section 508C.12(7), which required the board to prepare
27 24 a report to the commissioner at the conclusion of an insurer
27 25 insolvency in which the association was obligated to pay
27 26 claims, is stricken.
27 27 Code section 508C.16 is amended to provide that immunity and
27 28 indemnification provisions that apply to member insurers, the
27 29 association, the board of directors, the commissioner, and any
27 30 of their agents, employees, and representatives for actions or
27 31 omissions made by them in performing their powers and duties
27 32 under Code chapter 508C, are extended to their participation in
27 33 any organization of one or more similar state associations and
27 34 to that organization and its agents and employees.
27 35 Code section 508C.17 is amended to allow a stay of court



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28 1 proceedings in which an insolvent insurer is a party from
28 2 180 instead of 60 days from the date of a final order of
28 3 liquidation, rehabilitation, or conservation to permit legal
28 4 action by the association.
28 5 Code section 508C.18 is amended to specify that persons,
28 6 including insurers and their agents, are prohibited from making
28 7 written or oral advertisements that use the existence of the
28 8 insurance guaranty association to sell insurance.
28 9 New Code section 508C.18A requires the association within
28 10 180 days after enactment of this Code section to prepare a
28 11 summary document describing the general purposes and current
28 12 provisions of Code chapter 508C and containing a disclosure
28 13 with specified information about the coverage provided by the
28 14 association. On or after March 1, 2012, an insurer shall not
28 15 deliver an insurance policy or contract in Iowa to the owner of
28 16 the policy or contract unless the summary document is delivered
28 17 at the same time.
28 18 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
28 19 511.8(16) (h) is added to provide that financial instruments
28 20 used in hedging transactions and securities pledged as
28 21 collateral for financial instruments used in highly effective
28 22 hedging transactions are eligible for inclusion in the legal
28 23 reserve of an insurance company or association under Code
28 24 section 511.8(22). A corollary provision is added in Code
28 25 section 511.8(22) (i) to provide that securities held in the
28 26 legal reserve of a life insurance company or association
28 27 pledged as collateral for financial instruments used in highly
28 28 effective hedging transactions as defined in the national
28 29 association of insurance commissioners' Statement of Statutory
28 30 Accounting Principles continue to be eligible for inclusion in
28 31 the legal reserve subject to specified conditions.
28 32 SPECIAL HEALTH AND ACCIDENT INSURANCE COVERAGES. Code
28 33 section 514C.18, requiring health insurance coverage for the
28 34 treatment of diabetes, is amended to delete a reference to
28 35 specific testing supplies for home monitoring of the disease



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29 1 and instead add a more general reference to coverage of
29 2 equipment and supplies.
29 3 INSURANCE OTHER THAN LIFE. Code chapter 515 has several
29 4 provisions which relate to the duties of insurers when
29 5 forfeiting, suspending, cancelling, or nonrenewing commercial
29 6 and personal line policies or contracts of insurance. Code
29 7 sections 515.125 and 515.126 which contain general provisions
29 8 concerning those duties are amended to specify that more
29 9 specific provisions enacted in 2010 concerning personal lines
29 10 of insurance take precedence over these more general provisions
29 11 if they are inconsistent with one another.
29 12 AUTOMOBILE INSURANCE CANCELLATION. Code chapter 515D
29 13 contains provisions which relate specifically to the
29 14 cancellation of personal automobile insurance. Code sections
29 15 515D.5 and 515D.7 are amended to provide that the provisions
29 16 of Code chapter 515D take precedence over those relating to
29 17 the cancellation of personal lines insurance contained in
29 18 Code chapter 515 concerning the cancellation or nonrenewal of
29 19 personal automobile insurance.
29 20 COUNTY AND STATE MUTUAL INSURANCE GUARANTY ASSOCIATION.
29 21 Code section 518C.3(4)(b)(3) is amended to specify that a
29 22 covered claim for which the guaranty association provides
29 23 coverage does not include a fee or other amount relating to
29 24 goods or services sought by or on behalf of any provider of goods
29 25 or services retained by an insolvent insurer or by an insured
29 26 prior to the date the insurer was declared insolvent.
29 27 Code section 518C.3(4)(b) is also amended to provide
29 28 that a covered claim does not include a fee or other amount
29 29 sought by or on behalf of an attorney, adjuster, witness, or
29 30 other provider of goods or services retained by an insured or
29 31 claimant in connection with the assertion of a claim against
29 32 the association.
29 33 Code section 518C.5 is amended to provide that the board
29 34 of directors of the guaranty association consists of the
29 35 officers and directors of the mutual insurance association of



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30 1 Iowa or its successor only if those people are employed by a
30 2 corporation organized as a county mutual insurance association
30 3 pursuant to Code chapter 518 or a state mutual insurance
30 4 association pursuant to Code chapter 518A.
30 5 Code section 518C.6(1)(a)(2)(b) is amended to provide
30 6 that the association is obligated to pay certain claims not
30 7 exceeding the lesser of the policy limits or \$500,000, instead
30 8 of \$300,000, per claim or claims arising out of any one or a
30 9 series of occurrences.
30 10 Code section 518C.15 is amended to expand the immunity
30 11 provisions pertaining to the association to include any
30 12 committee established for the purpose of administering
30 13 the affairs of the association or any person serving as
30 14 an alternate or substitute representative director of the
30 15 association for any actions taken or any failure to act in the
30 16 performance of their duties.
30 17 CONSOLIDATION, MERGERS, AND REINSURANCE. Code section
30 18 521.1(4) is amended to provide that a company subject to the
30 19 consolidation, merger, and reinsurance provisions of Code
30 20 chapter 521 includes a health maintenance organization or
30 21 limited service organization organized pursuant to Code chapter
30 22 514B.
30 23 Code section 521.2 is amended to provide that one or more
30 24 foreign or domestic stock insurance companies may merge into a
30 25 domestic mutual insurance company organized under Code chapter
30 26 491 and one or more domestic health maintenance organizations
30 27 or limited service organizations formed under Code chapter
30 28 514B may merge into a domestic insurance company organized
30 29 under Code chapter 490 or 491. In addition, certain provisions
30 30 relating to merger or consolidation in Code chapter 491 are not
30 31 applicable to the merger or consolidation of a domestic mutual
30 32 insurance company pursuant to this chapter.
30 33 RISK=BASED CAPITAL REQUIREMENTS FOR INSURERS. Code section
30 34 521E.3(1)(a) is amended to add another situation which
30 35 constitutes a company=action=level event for an insurer when



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31 1 included in the filing of a risk-based capital report by the
31 2 insurer.
31 3 RISK=BASED CAPITAL REQUIREMENTS FOR HEALTH ORGANIZATIONS.
31 4 Code section 521F.4(1) is amended to add another situation
31 5 which constitutes a company=action=level event for a health
31 6 organization when included in the filing of a risk-based
31 7 capital report by the health organization.
31 8 CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES. Code
31 9 section 523A.206(1) is amended to require the commissioner
31 10 to conduct examinations of sellers of cemetery and funeral
31 11 merchandise, and funeral services every five years, instead of
31 12 every three years.
31 13 CEMETERY REGULATION. Code section 523I.213A(1) is amended
31 14 to require the commissioner to conduct an examination of a
31 15 cemetery every five years, instead of every three years.
LSB 1314DP (14) 84
av/sc



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Senate Study Bill 1090

SENATE FILE
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL
BY CHAIRPERSON
DANIELSON)

A BILL FOR

1 An Act relating to organ and tissue donation including donation
2 of anatomical gifts through an active choice registration
3 system and the establishment of an altruistic living donor
4 registry and fund.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2031XC (3) 84
pf/nh



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1 1 Section 1. NEW SECTION. 142E.1 Definitions.
1 2 As used in this chapter, unless the context otherwise
1 3 requires:
1 4 1. "Altruistic living donor registry" or "living donor
1 5 registry" means the registry established in section 142E.2 to
1 6 promote and assist live organ donations.
1 7 2. "Department" means the department of public health.
1 8 3. "Directed donation" means a donation pursuant to which
1 9 a living donor provides an organ for a known transplant
1 10 candidate.
1 11 4. "Iowa donor network" means the Iowa donor network as
1 12 defined in section 142C.2.
1 13 5. "Iowa donor registry" means the Iowa donor registry as
1 14 defined in section 142C.2.
1 15 6. "Nondirected donation" means a donation pursuant to
1 16 which a living donor does not identify a specific recipient and
1 17 donates to any recipient who is a medical match.
1 18 7. "Organ procurement organization" means organ procurement
1 19 organization as defined in section 142C.2.
1 20 8. "Paired exchange" means a donation pursuant to which the
1 21 registry assists a living donor and a transplant candidate who
1 22 are medically incompatible to find another living donor and
1 23 transplant candidate pair facing the same issue and to allow
1 24 the donors to exchange recipients.
1 25 9. "Registrar" means the administrator of the altruistic
1 26 living donor registry.
1 27 10. "Transplant hospital" means a transplant hospital as
1 28 defined in section 142C.2.
1 29 Sec. 2. NEW SECTION. 142E.2 Altruistic living donor
1 30 registry.
1 31 1. The director of public health shall contract with and
1 32 recognize the Iowa donor registry to establish and maintain an
1 33 altruistic living donor registry. The living donor registry
1 34 shall contain information regarding individuals who have
1 35 identified themselves as altruistic living kidney donors. The



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2 1 living donor registry shall be designed to promote and assist
2 2 live kidney donations, including but not limited to directed
2 3 donations, paired exchanges, and nondirected donations. The
2 4 registrar administering the altruistic living donor registry
2 5 shall develop methods to increase the number of donors who
2 6 enroll in the registry.

2 7 2. The registrar shall make available to the federally
2 8 designated organ procurement organizations and transplant
2 9 hospitals in the state, information contained in the registry
2 10 regarding potential donors. This information shall be used to
2 11 expedite a match between identified organ donors and potential
2 12 recipients.

2 13 3. The registrar may receive voluntary contributions to
2 14 support the registry and its activities. Any contributions
2 15 received shall be deposited in the altruistic living donor fund
2 16 created in section 142E.3.

2 17 4. The registrar shall collect and make all of the following
2 18 information relating to altruistic kidney donations available
2 19 to the public:

- 2 20 a. The number of donors on the registry.
- 2 21 b. The changes in the number of donors on the registry.
- 2 22 c. The general characteristics of the donors.

2 23 5. At such time as the centers for Medicare and Medicaid
2 24 services of the United States department of health and human
2 25 services and the united network for organ sharing determine
2 26 that a donation is generally regarded as safe and without a
2 27 significant risk of complications, and would not adversely
2 28 affect the health of the donor, the registrar may expand the
2 29 altruistic living donor registry to include individuals who
2 30 identify themselves as altruistic living donors of organs
2 31 and tissue other than kidneys. Any such expansion shall be
2 32 reported by the department in the annual altruistic living
2 33 donor report pursuant to subsection 6.

2 34 6. The department shall prepare and submit a report to
2 35 the governor and the general assembly, annually, on or before



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3 1 January 1, regarding altruistic living donor donation. The
3 2 report shall contain all of the following:
3 3 a. An evaluation of living donor donation in the state,
3 4 including statistics regarding donor donation activity as of
3 5 September 30 of the preceding year.
3 6 b. Efforts in the state to increase living donor donation.
3 7 c. Annual contribution levels to the altruistic living donor
3 8 fund and any distributions made from the fund.
3 9 d. Efforts and ideas for increasing public awareness of the
3 10 option of living donor donation.
3 11 e. Additional information deemed relevant by the department
3 12 in assessing the status and progress of living donor donation
3 13 efforts in the state.
3 14 Sec. 3. NEW SECTION. 142E.3 Altruistic living donor fund.
3 15 1. An altruistic living donor fund is created as a separate
3 16 fund in the state treasury under the control of the department.
3 17 The fund shall consist of any appropriations or contributions
3 18 made to the fund for the purpose of the fund.
3 19 2. The moneys collected under this section and deposited in
3 20 the fund are appropriated to the department for the purpose of
3 21 administering the altruistic living donor registry established
3 22 in section 142E.1. Moneys in the fund shall not be subject to
3 23 appropriation or expenditure for any other purpose.
3 24 3. The treasurer of state shall act as custodian of the fund
3 25 and shall disburse amounts contained in the fund as directed
3 26 by the department. The treasurer of state may invest the
3 27 moneys deposited in the fund. Notwithstanding section 12C.7,
3 28 interest or earnings on moneys in the fund shall be credited
3 29 to the fund. Notwithstanding section 8.33, moneys credited to
3 30 the fund that remain unexpended or unobligated at the end of a
3 31 fiscal year shall not revert to any other fund.
3 32 Sec. 4. NEW SECTION. 321.183A Application for driver's
3 33 license or nonoperator's identification card ==== active choice
3 34 anatomical gift donation.
3 35 1. a. The application for a driver's license or



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4 1 nonoperator's identification card or renewal of a driver's
4 2 license or nonoperator's identification card shall contain a
4 3 space for the applicant to indicate choice of enrollment as an
4 4 anatomical gift donor on the Iowa donor registry as defined in
4 5 section 142C.2.
4 6 b. The application shall include the following language to
4 7 allow an applicant to indicate the applicant's preference:
4 8 ___ Yes, add my name to the Iowa donor registry.
4 9 ___ I do not wish to register at this time.
4 10 Marking "yes" adds your name to the Iowa donor registry and an
4 11 indication will appear on your license or card. If you wish to
4 12 remove your name from the registry you must contact the Iowa
4 13 donor registry. The department can remove the indication from
4 14 your license or card, but cannot remove you from the registry.
4 15 If you mark "yes" to register as an anatomical gift donor,
4 16 you are legally authorizing the recovery of organs and tissues
4 17 in the event of your death. Registering as a donor will not
4 18 affect your medical treatment in any way. As outlined in the
4 19 Iowa Revised Uniform Anatomical Gift Act, Iowa Code chapter
4 20 142C, your authorization is legally binding if your donation
4 21 complies with the Iowa Revised Uniform Anatomical Gift Act.
4 22 You may limit your donation to specific organs or tissues,
4 23 place usage restrictions, for example transplantation or
4 24 research, obtain more information about donation, or remove
4 25 your name from the registry.
4 26 2. The department shall inquire verbally of an applicant
4 27 applying in person as to whether the applicant wishes to enroll
4 28 as an anatomical gift donor. Failure or refusal to answer
4 29 the question or to check a box on the application form is not
4 30 a basis for denial of a driver's license or nonoperator's
4 31 identification card.
4 32 3. A minor may register as a donor if the minor is
4 33 emancipated or if the minor is authorized under state law to
4 34 apply for a driver's license or identification card because
4 35 the minor is at least fourteen years of age, and the minor



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5 1 authorizes registration as a donor with the signed approval of
5 2 a parent or guardian.
5 3 4. On a weekly basis, the department shall electronically
5 4 transmit to the Iowa donor registry, as defined in section
5 5 142C.2, all of the following information from every application
5 6 that indicates the applicant's decision to enroll in the Iowa
5 7 donor registry.
5 8 a. The applicant's true full name.
5 9 b. The applicant's residence or mailing address.
5 10 c. The applicant's year of birth.
5 11 d. The applicant's driver's license number or identification
5 12 card number.
5 13 5. The director shall adopt rules to administer this
5 14 section.

5 15 EXPLANATION

5 16 This bill relates to organ and tissue donation through
5 17 anatomical gifts and living donor donations.
5 18 The bill directs the director of public health to contract
5 19 with and recognize the Iowa donor registry to establish and
5 20 maintain an altruistic living donor registry. The living
5 21 donor registry is to contain information regarding individuals
5 22 who have identified themselves as altruistic living kidney
5 23 donors, and is to be designed to promote and assist live kidney
5 24 donations, including directed donations, paired exchanges,
5 25 and nondirected donations. The registrar administering the
5 26 altruistic living donor registry is directed to develop methods
5 27 to increase the number of donors who enroll in the registry.
5 28 The bill requires the registrar to make available to the
5 29 federally designated organ procurement organizations and
5 30 transplant hospitals in the state, information contained in the
5 31 registry regarding potential donors. This information must
5 32 be used to expedite a match between identified organ donors
5 33 and potential recipients. The registrar is required to make
5 34 certain information available to the public including the
5 35 number of donors on the registry; changes in the number of



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6 1 donors on the registry; and the general characteristics of the
6 2 donors.
6 3 The bill provides that at such time as the centers for
6 4 Medicare and Medicaid services of the United States department
6 5 of health and human services and the united network for organ
6 6 sharing determine that a donation is generally regarded as safe
6 7 and without a significant risk of complications, and would
6 8 not adversely affect the health of the donor, the registrar
6 9 may expand the altruistic living donor registry to include
6 10 individuals who identify themselves as altruistic living donors
6 11 of organs and tissue other than kidneys. Any such expansion
6 12 is required to be reported by the department of public health
6 13 (DPH) in the annual altruistic living donor report.
6 14 The bill directs DPH to prepare and submit a report to the
6 15 governor and the general assembly, annually, on or before
6 16 January 1, regarding altruistic living donor donation, and
6 17 specifies the information to be included in the report. The
6 18 bill also establishes an altruistic living donor fund as a
6 19 separate fund in the state treasury under the control of DPH
6 20 and appropriates the moneys in the fund to DPH for the purposes
6 21 of administering the altruistic living donor registry.
6 22 The bill also provides for active choice in making an
6 23 anatomical gift by specifying language to be included on
6 24 an application for a driver's license or nonoperator's
6 25 identification card or renewal of a driver's license or
6 26 nonoperator's identification card. Under the bill, the
6 27 application is to contain a space for the applicant to indicate
6 28 choice of enrollment as an anatomical gift donor on the Iowa
6 29 donor registry by including boxes for an applicant to mark
6 30 one of the following: "yes, add my name to the Iowa donor
6 31 registry"; or "I do not wish to register at this time". The
6 32 bill also requires the department of transportation to inquire
6 33 verbally of an applicant applying in person as to whether
6 34 the applicant wishes to enroll as an anatomical gift donor.
6 35 Failure or refusal to answer the question or to check a box on



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7 1 the application form is not a basis for denial of a driver's
7 2 license or nonoperator's identification card. The bill also
7 3 specifies the language to be included on the application
7 4 relating to anatomical gift donation. The bill directs the
7 5 department, on a weekly basis, to electronically transmit
7 6 to the Iowa donor registry specific information relating to
7 7 the information provided by the applicant and directs the
7 8 director of the department of transportation to adopt rules to
7 9 administer the provisions of the bill.

LSB 2031XC (3) 84

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Senate Study Bill 1091

SENATE FILE
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL
BY CHAIRPERSON
DANIELSON)

A BILL FOR

- 1 An Act creating a high performance certification program
- 2 applicable to certain public buildings.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2066XC (2) 84
rn/sc



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1 1 Section 1. NEW SECTION. 473B.1 High performance public
1 2 building certification ==== program established ==== legislative
1 3 intent.

1 4 The intent of the general assembly is to promote
1 5 effective energy and environmental standards for the design,
1 6 construction, renovation, and maintenance of public buildings.
1 7 These standards shall improve the capacity of the state to
1 8 operate high performance buildings and thereby increasing
1 9 energy independence, increasing demand for environmentally
1 10 preferable building materials, finishes, and furnishings,
1 11 reducing waste generation and manage waste through recycling
1 12 and diversion from landfill disposal, and establishing life
1 13 cycle cost analysis as the appropriate and most efficient
1 14 analysis to determine the optimal performance level of a
1 15 building project.

1 16 Sec. 2. NEW SECTION. 473B.2 Definitions.

1 17 As used in this section, unless the context otherwise
1 18 requires:

1 19 1. "Department" means the department of administrative
1 20 services.

1 21 2. "High performance certification" means a public building
1 22 design, construction, and renovation standard that is certified
1 23 by an independent third-party organization pursuant to section
1 24 473B.3 as having been achieved.

1 25 3. "Public building" means a facility that meets all of the
1 26 following conditions:

1 27 a. Is constructed or renovated in whole or in part with
1 28 state funds or with funds guaranteed or insured by a state
1 29 agency, with the state or guaranteed funding constituting at
1 30 least fifty percent of the project cost.

1 31 b. Contains ten thousand or more square feet.

1 32 c. Includes a heating, ventilation, or air conditioning
1 33 system.

1 34 d. Has not entered the design phase prior to July 1, 2011.

1 35 4. "State agency" means an agency, department, authority,



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2 1 board, commission, council, court, office, bureau, institution,
2 2 unit, or division of the executive or judicial branches of
2 3 state government, whether elected or appointed, including
2 4 institutions under the control of the state board of regents.
2 5 5. "Substantial renovation" means any renovation of a
2 6 public building the cost of which exceeds fifty percent of the
2 7 replacement value of the facility.
2 8 Sec. 3. NEW SECTION. 473B.3 Program established.
2 9 1. The department shall adopt rules establishing a high
2 10 performance certification program. The objectives of the
2 11 program shall include the following:
2 12 a. Reducing operating costs of public buildings by
2 13 decreasing the consumption of energy, water, and other
2 14 resources.
2 15 b. Recovering the increased initial capital costs
2 16 attributable to compliance with the program by reducing
2 17 long-term energy, maintenance, and operating expenses.
2 18 c. Improving the indoor environmental quality of public
2 19 buildings for a healthier work environment.
2 20 2. A state agency designing, constructing, or controlling
2 21 the substantial renovation of a public building on or after
2 22 July 1, 2011, shall be required to submit design plans and
2 23 specifications to the department for approval before contracts
2 24 for the construction or substantial renovation are let. A
2 25 proposal shall not be approved unless high performance
2 26 certification is achieved, subject to the provisions of
2 27 subsection 3. The department shall adopt rules establishing a
2 28 certification process by an independent third party that the
2 29 design, construction, or substantial renovation, based upon a
2 30 life cycle cost analysis conducted pursuant to chapter 470,
2 31 meets the minimum standards of the United States green building
2 32 council's leadership in energy and environmental design rating
2 33 system, the green building initiative's green globes rating
2 34 system, or standards developed by an alternative third-party
2 35 organization designated by the department.



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3 1 3. Notwithstanding subsection 2, the department may waive
3 2 the high performance certification requirement if a state
3 3 agency submits an estimate indicating that the increased
3 4 initial costs of achieving certification are projected to
3 5 exceed five percent of the total design and construction or
3 6 substantial renovation costs, and the department determines
3 7 that the public building is not anticipated to recoup these
3 8 costs through decreased operational and maintenance expenses
3 9 within five years. In the event a waiver is granted, an
3 10 accredited construction, engineering, or architectural
3 11 professional associated with the proposed public building
3 12 project shall submit to the department a written declaration
3 13 that to the extent possible the construction or substantial
3 14 renovation shall be executed in a manner which is consistent
3 15 with the program's high performance certification standards.
3 16 A waiver pursuant to this subsection shall not be granted if
3 17 the department determines that the public building can be
3 18 anticipated to recoup the increased costs within five years.
3 19 4. A public building of less than ten thousand square feet,
3 20 nonsubstantial renovations of public buildings, and public
3 21 building maintenance programs shall, to the extent possible,
3 22 conform to high performance certification standards.
3 23 5. When awarding contracts for the design, construction,
3 24 or substantial renovation of a public building, preference
3 25 shall be given to companies employing at least one individual
3 26 accredited in green design rating systems. The department
3 27 shall identify and seek to have public buildings receiving high
3 28 performance certification designated as an energy star building
3 29 pursuant to the energy star program developed and jointly
3 30 administered by the United States environmental agency and the
3 31 United States department of energy.
3 32 6. The department shall develop and implement a process
3 33 to monitor and evaluate the program, and shall, by January 1
3 34 annually, submit a report regarding compliance with program
3 35 guidelines, indicating the number of public buildings receiving



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4 1 high performance certification, and describing any resulting
4 2 energy and environmental benefits observed.

4 3 EXPLANATION

4 4 This bill establishes a high performance certification
4 5 program administered by the department of administrative
4 6 services and applicable to public buildings.

4 7 The bill states that the intent of the general assembly is to
4 8 promote effective energy and environmental standards for the
4 9 design, construction, renovation, and maintenance of public
4 10 buildings. The bill further states that these standards will
4 11 improve the capacity of the state to operate high performance
4 12 buildings to increase energy independence, increase demand for
4 13 environmentally preferable building materials, finishes, and
4 14 furnishings, reduce waste generation and manage waste through
4 15 recycling and diversion from landfill disposal, and establish
4 16 life cycle cost analysis as the appropriate and most efficient
4 17 analysis to determine the optimal performance level of a
4 18 building project.

4 19 The bill provides that the department shall adopt rules
4 20 establishing the program, with objectives which include
4 21 reducing operating costs of public buildings by decreasing the
4 22 consumption of energy, water, and other resources; recovering
4 23 the increased initial capital costs attributable to compliance
4 24 with the program over time by reducing long-term energy,
4 25 maintenance, and operating expenses; and improving the indoor
4 26 environmental quality of public buildings for a healthier work
4 27 environment. The bill defines a public building as a facility
4 28 that is constructed or renovated in whole or in part with state
4 29 funds or with funds guaranteed or insured by a state agency,
4 30 with state or guaranteed funds constituting at least 50 percent
4 31 of the project cost; that contains 10,000 or more square feet;
4 32 includes a heating, ventilation, or air conditioning system;
4 33 and has not entered the design phase prior to July 1, 2011.

4 34 The bill provides that a state agency, as defined in the
4 35 bill, which is designing, constructing, or controlling the



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5 1 substantial renovation of a public building on or after
5 2 July 1, 2011, shall be required to submit design plans and
5 3 specifications to the department for approval before contracts
5 4 for the construction or substantial renovation are let. The
5 5 bill defines "substantial renovation" to mean any renovation
5 6 of a public building the cost of which exceeds 50 percent
5 7 of the replacement value of the facility. The bill provides
5 8 that a proposal shall not be approved unless high performance
5 9 certification is achieved pursuant to a process conducted
5 10 by an independent third party certifying that the design,
5 11 construction, or substantial renovation meets the minimum
5 12 standards of the United States green building council's
5 13 leadership in energy and environmental design rating system
5 14 (LEED), the green building initiative's green globes rating
5 15 system, or standards developed by an alternative third-party
5 16 organization designated by the department.

5 17 The bill provides for a waiver from these requirements if a
5 18 state agency submits an estimate indicating that the increased
5 19 initial costs of achieving certification are projected to
5 20 exceed 5 percent of the total design and construction or
5 21 substantial renovation costs, and the department determines
5 22 that the public building is not anticipated to recoup these
5 23 costs through decreased operational and maintenance expenses
5 24 within five years. In this event, the bill requires an
5 25 accredited construction, engineering, or architectural
5 26 professional associated with the proposed public building
5 27 project to submit a written declaration that to the extent
5 28 possible the construction or substantial renovation shall be
5 29 executed in a manner which is consistent with the program's
5 30 high performance certification standards. The bill states that
5 31 a waiver shall not be granted if the department determines that
5 32 the public building can be anticipated to recoup the costs
5 33 within a five-year period.

5 34 The bill provides that public buildings of less than 10,000
5 35 square feet, nonsubstantial public building renovations, and



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6 1 public building maintenance programs shall, to the extent
6 2 possible, conform to high performance certification standards.
6 3 Additionally, the bill states that when awarding contracts
6 4 for the design, construction, or substantial renovation of
6 5 a public building, preference shall be given to companies
6 6 employing at least one individual accredited in green design
6 7 rating systems. The bill directs the department to identify
6 8 and seek to have public buildings receiving high performance
6 9 certification designated as an energy star building pursuant to
6 10 the energy star program developed and jointly administered by
6 11 the United States environmental agency and the United States
6 12 department of energy.
6 13 The bill requires the department to develop and implement
6 14 a process to monitor and evaluate the program and to submit a
6 15 report regarding compliance with program guidelines, the number
6 16 of public buildings receiving high performance certification,
6 17 and resulting energy and environmental benefits observed, by
6 18 January 1 annually.

LSB 2066XC (2) 84

rn/sc



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Senate Study Bill 1092

SENATE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON FRAISE)

A BILL FOR

1 An Act relating to bail restrictions placed on criminal
2 defendants.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1920SC (2) 84
jm/nh



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1 1 Section 1. Section 811.1, subsections 1 and 2, Code 2011,
1 2 are amended to read as follows:
1 3 1. A defendant awaiting judgment of conviction and
1 4 sentencing following either a plea or verdict of guilty of a
1 5 class "A" felony, ~~murder, forcible felony as defined in section~~
1 6 ~~702.11, any class "B" felony included in section 462A.14 or~~
1 7 ~~707.6A; felonious assault; felonious child endangerment; sexual~~
1 8 ~~abuse in the second degree; sexual abuse in the third degree;~~
1 9 ~~kidnapping; robbery in the first degree; arson in the first~~
1 10 ~~degree; burglary in the first degree; any felony included~~
1 11 ~~in section 124.401, subsection 1, paragraph "a" or "b"; or a~~
1 12 ~~second or subsequent offense under section 124.401, subsection~~
1 13 ~~1, paragraph "c"; any felony punishable under section 902.9,~~
1 14 ~~subsection 1; any public offense committed while detained~~
1 15 ~~pursuant to section 229A.5; or any public offense committed~~
1 16 ~~while subject to an order of commitment pursuant to chapter~~
1 17 ~~229A.~~
1 18 2. A defendant appealing a conviction of a class "A"
1 19 ~~felony; murder, forcible felony as defined in section 702.11;~~
1 20 ~~any class "B" or "C" felony included in section 462A.14 or~~
1 21 ~~707.6A; felonious assault; felonious child endangerment; sexual~~
1 22 ~~abuse in the second degree; sexual abuse in the third degree;~~
1 23 ~~kidnapping; robbery in the first degree; arson in the first~~
1 24 ~~degree; burglary in the first degree; any felony included in~~
1 25 ~~section 124.401, subsection 1, paragraph "a" or "b"; or a second~~
1 26 ~~or subsequent conviction under section 124.401, subsection~~
1 27 ~~1, paragraph "c"; any felony punishable under section 902.9,~~
1 28 ~~subsection 1; any public offense committed while detained~~
1 29 ~~pursuant to section 229A.5; or any public offense committed~~
1 30 ~~while subject to an order of commitment pursuant to chapter~~
1 31 ~~229A.~~

1 32 EXPLANATION

1 33 This bill relates to bail restrictions placed on criminal
1 34 defendants.

1 35 The bill specifies a defendant awaiting sentencing after a



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2 1 plea of guilty or a conviction for a forcible felony is not
2 2 eligible for bail.
2 3 The bill also specifies a defendant appealing a conviction
2 4 for a forcible felony is not be eligible for bail.
2 5 The changes in the bill make a defendant eligible for bail if
2 6 the defendant was convicted of or appealing a conviction for
2 7 assault without the intent to cause serious injury but causing
2 8 serious injury in violation of Code section 708.2(4), willful
2 9 injury causing bodily injury in violation of Code section
2 10 708.4(2), sexual abuse between spouses, sexual abuse against a
2 11 minor 14 or 15 years of age when the defendant is at least four
2 12 years older than the minor, or child endangerment in violation
2 13 of Code section 726.6(6).
2 14 The bill makes a defendant ineligible for bail if the
2 15 defendant was convicted of or appealing a conviction for
2 16 robbery in the second degree in violation of Code section
2 17 711.3.

LSB 1920SC (2) 84

jm/nh



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Senate Study Bill 1093

SENATE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON FRAISE)

A BILL FOR

1 An Act authorizing a landlord to bifurcate or amend certain
2 residential leases.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1964SC (4) 84
md/sc



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Senate Study Bill 1093 continued

PAG LIN

1 1 Section 1. Section 562A.27A, Code 2011, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 4. a. Notwithstanding section 562A.27
1 4 or 648.3, and in lieu of the remedy under subsection 1, if a
1 5 tenant or other lawful occupant of a dwelling unit has created
1 6 or maintained a threat constituting a clear and present danger
1 7 to the health or safety of other tenants, the landlord, the
1 8 landlord's employee or agent, or other persons on or within
1 9 one thousand feet of the landlord's property, the landlord,
1 10 after the service on the tenant of a single three days' written
1 11 notice of termination and notice to quit stating the specific
1 12 activity causing the clear and present danger, and setting
1 13 forth the language of subsection 3 which includes certain
1 14 exemption provisions available to the tenant, may do any of the
1 15 following:

1 16 (1) Bifurcate or otherwise divide the rental agreement and
1 17 file suit against the tenant who has created or maintained the
1 18 threat constituting a clear and present danger for recovery of
1 19 possession and termination of the tenant's rights of occupancy
1 20 to the dwelling unit. The petition shall state the incident or
1 21 incidents giving rise to the notice of termination and notice
1 22 to quit. The tenant shall be given the opportunity to contest
1 23 the termination in the court proceedings by notice thereof at
1 24 least three days prior to the hearing.

1 25 (2) Amend the rental agreement to terminate the occupancy
1 26 rights of the lawful occupant who has created or maintained the
1 27 threat constituting a clear and present danger.

1 28 b. Nothing in this subsection shall be construed to
1 29 authorize a landlord to terminate or otherwise impair the
1 30 occupancy rights of a tenant or other lawful occupant who has
1 31 not created or maintained a threat constituting clear and
1 32 present danger.

1 33 EXPLANATION

1 34 This bill provides that if a tenant or other lawful
1 35 occupant of a dwelling unit has created or maintained a threat



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2 1 constituting a clear and present danger to the health or safety
2 2 of specified persons, the landlord, upon meeting certain notice
2 3 requirements, may either bifurcate or otherwise divide the
2 4 rental agreement and file suit against the tenant who has
2 5 created or maintained the threat constituting a clear and
2 6 present danger for recovery of possession and termination of
2 7 the tenant's rights of occupancy or amend the rental agreement
2 8 to terminate the occupancy rights of the lawful occupant who
2 9 has created or maintained the threat constituting a clear and
2 10 present danger.

2 11 In the case of a landlord filing suit against a tenant under
2 12 the bill, the petition shall state the incident or incidents
2 13 giving rise to the notice of termination and notice to quit
2 14 and the tenant must be given the opportunity to contest the
2 15 termination in the court proceedings by notice thereof at least
2 16 three days prior to the hearing.

2 17 The bill also provides that nothing in the bill shall
2 18 be construed to authorize a landlord to terminate or
2 19 otherwise impair the occupancy rights of a tenant or other
2 20 lawful occupant who has not created or maintained a threat
2 21 constituting clear and present danger.

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md/sc



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Senate Study Bill 1094

SENATE FILE
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON FRAISE)

A BILL FOR

1 An Act relating to the discovery of privileged medical records,
2 including mental health records, in a criminal case and
3 including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1506SC (5) 84
rh/rj



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Senate Study Bill 1094 continued

PAG LIN

1 1 Section 1. Section 228.6, subsection 4, Code 2011, is
1 2 amended to read as follows:
1 3 4. a. Mental health information may be disclosed in a civil
1 4 or administrative proceeding in which an individual eighteen
1 5 years of age or older or an individual's legal representative
1 6 or, in the case of a deceased individual, a party claiming or
1 7 defending through a beneficiary of the individual, offers the
1 8 individual's mental or emotional condition as an element of a
1 9 claim or a defense.
1 10 b. Mental health information may be disclosed in a criminal
1 11 proceeding pursuant to section 622.10, subsection 3A.
1 12 Sec. 2. Section 622.10, Code 2011, is amended by adding the
1 13 following new subsection:
1 14 NEW SUBSECTION. 3A. a. Except as otherwise provided in
1 15 this subsection, the confidentiality privilege under this
1 16 section shall be absolute with regard to a criminal action and
1 17 this section shall not be construed to authorize or require
1 18 the disclosure of any privileged records to a defendant in a
1 19 criminal action unless either of the following occur:
1 20 (1) The privilege holder voluntarily waives the
1 21 confidentiality privilege.
1 22 (2) (a) The defendant seeking access to privileged records
1 23 under this section files a motion demonstrating in good faith a
1 24 reasonable probability that the information sought is likely
1 25 to contain exculpatory information that is not available from
1 26 any other source and for which there is a compelling need for
1 27 the defendant to present a defense in the case. Such a motion
1 28 shall be filed not later than forty days after arraignment
1 29 under seal of the court.
1 30 (b) Upon a showing of a reasonable probability that the
1 31 privileged records sought may likely contain exculpatory
1 32 information that is not available from any other source, the
1 33 court shall conduct an in camera review of such records to
1 34 determine whether exculpatory information is contained in such
1 35 records.



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2 1 (c) If exculpatory information is contained in such
2 2 records, the court shall balance the need to disclose such
2 3 information against the privacy interest of the privilege
2 4 holder.

2 5 (d) Upon the court's determination, in writing, that the
2 6 privileged information sought is exculpatory and that there
2 7 is a compelling need for such information that outweighs the
2 8 privacy interests of the privilege holder, the court shall
2 9 issue an order allowing the disclosure of only those portions
2 10 of the records that contain the exculpatory information. The
2 11 court's order shall also prohibit any further dissemination
2 12 of the information to any person, other than the defendant,
2 13 the defendant's attorney, and the prosecutor, unless otherwise
2 14 authorized by the court.

2 15 b. Privileged information obtained by any means other than
2 16 as provided in paragraph "a" shall not be admissible in any
2 17 criminal action.

2 18 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
2 19 immediate importance, takes effect upon enactment.

2 20 EXPLANATION

2 21 This bill relates to the discovery of privileged medical
2 22 records, including mental health records, in a criminal case
2 23 and includes effective date provisions.

2 24 Under Iowa Code section 622.10, certain health care
2 25 professionals, including mental health professionals,
2 26 are prohibited, in giving testimony, from disclosing any
2 27 confidential communication that occurs between the health care
2 28 professional and a patient during the course of the patient's
2 29 course of treatment. In State v. Cashen, 789 N.W.2d 400
2 30 (2010), the Iowa Supreme Court set forth certain protocol that
2 31 must be followed to balance a patient's right to privacy with
2 32 a defendant's right to present evidence to a jury that might
2 33 influence the jury's determination of guilt if privileged
2 34 mental health records are made available in a criminal
2 35 proceeding.



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3 1 The bill amends Code section 622.10 to provide that,
3 2 except as otherwise provided in the bill, the confidentiality
3 3 privilege under Code section 622.10 shall be absolute in
3 4 relation to a criminal action and that the bill shall not
3 5 be construed to authorize or require the disclosure of
3 6 any privileged records to a defendant in a criminal action
3 7 unless either the privilege holder voluntarily waives the
3 8 confidentiality privilege or the defendant seeking access to
3 9 privileged records files a motion demonstrating in good faith a
3 10 reasonable probability that the information sought is likely to
3 11 contain exculpatory information that is not available from any
3 12 other source and for which there is a compelling need for the
3 13 defendant to present a defense in the case.
3 14 The bill provides that if the defendant files such a motion,
3 15 the court shall conduct an in camera review of such records
3 16 to determine whether exculpatory information is contained in
3 17 such records upon a showing of a reasonable probability that
3 18 the privileged records sought may likely contain exculpatory
3 19 information that is not available from any other source. If
3 20 exculpatory information is contained in such records, the court
3 21 is required to balance the need to disclose such information
3 22 against the privacy interest of the privilege holder. If
3 23 the court determines that the privileged information sought
3 24 is exculpatory and that there is a compelling need for such
3 25 information that outweighs the privacy interests of the
3 26 privilege holder, the court shall issue an order allowing the
3 27 disclosure of only those portions of the records that contain
3 28 the exculpatory information. The court's order shall also
3 29 prohibit any further dissemination of the information to any
3 30 person, other than the defendant, the defendant's attorney,
3 31 and the prosecutor, unless otherwise authorized by the court.
3 32 The bill provides that privileged information obtained by any
3 33 means other than as provided in the bill is not admissible in
3 34 a criminal action.
3 35 The bill makes a conforming amendment to Code section 228.6



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4 1 relating to the compulsory disclosure of mental health and
4 2 psychological information.

4 3 The bill takes effect upon enactment.

LSB 1506SC (5) 84

rh/rj